



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLVII
December 11, 2024

NUMBER 11
Pages 5561 to 6073

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rulemaking—2024

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

PLEASE NOTE:

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

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more business days in advance of the deadline. The first possible notice submission deadline noted above may not allow sufficient time for this. Agencies should plan accordingly.

Note change of filing deadline

ACCOUNTANCY EXAMINING BOARD[193A]

Basic continuing professional education,
10.5
IAB 11/27/24
Regulatory Analysis

6200 Park Avenue
Des Moines, Iowa

December 20, 2024
10 to 11 a.m.

COLLEGE STUDENT AID COMMISSION[283]

Loan repayment programs—rural Iowa
primary care, rural Iowa ARNP and
PA, rural veterinarian, mental health
professional, adopt chs 24, 27, 31,
rescind ch 25; chiropractic graduate
student forgivable loan program,
rescind ch 32; Iowa teacher shortage
loan forgiveness program, rescind ch
35; Iowa state fair scholarship
program, rescind ch 36
IAB 11/27/24 **ARCs 8398C to 8403C,
8405C**

Room B50
Grimes State Office Building
Des Moines, Iowa

December 17, 2024
4 to 4:30 p.m.

ICN Room
Grimes State Office Building
Des Moines, Iowa

December 18, 2024
9 to 9:30 a.m.

CREDIT UNION DIVISION[189]

Meeting frequency—credit union review
board; board of directors, 1.3(2), 2.9(1)
IAB 11/27/24 **ARCs 8418C, 8425C**

[Google Meet link](#)
Or dial: +1 540.680.3842
PIN: 135 013 027#

December 17, 2024
1:30 to 2 p.m.

DENTAL BOARD[650]

Agency realignment, rescind chs 1, 6 to
16, 20 to 23, 25 to 27, 29 to 33, 35, 36,
50 to 52
IAB 12/11/24 **ARC 8493C**

6200 Park Avenue, Suite 100
Des Moines, Iowa

January 2, 2025
12 noon to 12:30 p.m.

meet.google.com/cvm-tzam-vps
Or dial: 575.587.5605
PIN: 850 703 192#

January 3, 2025
12 noon to 12:30 p.m.

ECONOMIC DEVELOPMENT AUTHORITY[261]

Variance procedures for tax increment
financing (TIF) housing projects,
ch 26
IAB 11/27/24
Regulatory Analysis

1963 Bell Avenue
Des Moines, Iowa
Registration information for online
participation may be found at
www.iowaeda.com/red-tape-review/

December 20, 2024
1 to 1:15 p.m.

Rural housing needs assessment grant
program, ch 28; rural innovation grant
program, ch 29; empower rural Iowa
program, ch 30
IAB 11/27/24
Regulatory Analyses

1963 Bell Avenue
Des Moines, Iowa
Registration information for online
participation may be found at
www.iowaeda.com/red-tape-review/

December 20, 2024
1:15 to 1:30 p.m.

Regional sports authority districts,
ch 38
IAB 11/27/24
Regulatory Analysis

1963 Bell Avenue
Des Moines, Iowa
Registration information for online
participation may be found at
www.iowaeda.com/red-tape-review/

December 20, 2024
1:30 to 1:45 p.m.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Iowa tourism grant program, ch 42
IAB 11/27/24

Regulatory Analysis

1963 Bell Avenue
Des Moines, Iowa
Registration information for online
participation may be found at
www.iowaeda.com/red-tape-review/

December 20, 2024
1:45 to 2 p.m.

EDUCATION DEPARTMENT[281]

Accredited schools and school districts—
parental rights, age-appropriate library
programs, gender identity and sexual
orientation, 12.3; dual enrollment,
31.5(4)
IAB 12/11/24 **ARCs 8505C, 8506C**

Room B50
Grimes State Office Building
Des Moines, Iowa

December 31, 2024
8 to 9 a.m.

HUMAN RIGHTS DEPARTMENT[421]

Family development and self-sufficiency
(FaDSS) program, rescind ch 24
IAB 12/11/24 **ARC 8540C**

Microsoft Teams
Meeting ID: 297 224 919 887
Passcode: TpBUop

January 16, 2025
10 to 11 a.m.

Microsoft Teams
Meeting ID: 255 649 705 881
Passcode: BsEBSV

January 21, 2025
2:30 to 3:30 p.m.

Functions of division, rescind ch 40; hall
of fame, rescind ch 41
IAB 12/11/24 **ARCs 8508C, 8522C**

Microsoft Teams
Meeting ID: 281 130 323
Passcode: XDpFQ2:

January 14, 2025
9 to 10 a.m.

Microsoft Teams
Meeting ID: 254 845 374
Passcode: hPYxD2

January 17, 2025
9 to 10 a.m.

HUMAN SERVICES DEPARTMENT[441]

Appeals and hearings; public records and
fair information practices; notices, chs
7, 9, 16
IAB 11/27/24 **ARC 8426C**

Microsoft Teams
Meeting ID: 218 026 547 310
Passcode: bbBuvN

December 17, 2024
1 to 1:30 p.m.

Microsoft Teams
Meeting ID: 255 854 859 881
Passcode: ZzQVNH

December 18, 2024
10:30 to 11 a.m.

Family development and self-sufficiency
(FaDSS) program, ch 49; early
childhood Iowa initiative, ch 121;
payments for foster care, 156.6(1),
156.7
IAB 12/11/24 **ARC 8469C, 8529C,
8535C**

Microsoft Teams
Meeting ID: 240 123 537 880
Passcode: 4MT8Ac

January 15, 2025
10 to 11 a.m.

Microsoft Teams
Meeting ID: 273 055 800 019
Passcode: FggQZn

January 17, 2025
2:30 to 3:30 p.m.

Application for assistance, ch 50;
eligibility, ch 51; payment, ch 52
IAB 12/11/24 **ARCs 8468C, 8531C,
8536C**

Microsoft Teams
Meeting ID: 231 057 860 353
Passcode: fLgiUS

January 14, 2025
1 to 2 p.m.

Microsoft Teams
Meeting ID: 230 344 825 539
Passcode: siQGLw

January 17, 2025
11 a.m. to 12 noon

HUMAN SERVICES DEPARTMENT[441](cont'd)

Facility participation, ch 54 IAB 12/11/24 ARC 8519C	Microsoft Teams Meeting ID: 216 574 088 886 Passcode: 6byRqd	January 14, 2025 10:30 to 11:30 a.m.
	Microsoft Teams Meeting ID: 279 027 480 671 Passcode: RWrjKS	January 17, 2025 10 to 11 a.m.
Interim assistance reimbursement, ch 57; refugee cash assistance, ch 60; rent reimbursement, ch 62; supplemental nutrition assistance program administration, ch 65; emergency food assistance program, ch 66; special supplemental nutrition program for women, infants, and children (WIC), ch 67; child care centers, ch 109 IAB 12/11/24 ARCs 8473C, 8514C, 8524C, 8525C, 8533C, 8534C, 8537C	Microsoft Teams ID: 225 091 018 909 Passcode: hVKapN	January 14, 2025 2:30 to 3:30 p.m.
	Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e	January 17, 2025 1:30 to 2:30 p.m.
More options for maternal support (MOMS) program, ch 164 IAB 12/11/24 ARC 8541C	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV	January 16, 2025 9 to 10 a.m.
	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ	January 21, 2025 11 a.m. to 12 noon

INSPECTIONS AND APPEALS DEPARTMENT[481]

Dependent adult abuse in facilities and programs, ch 52 IAB 12/11/24 Regulatory Analysis	Pine Conference Room 6200 Park Avenue Des Moines, Iowa	January 14, 2025 10 to 10:30 a.m.
Bingo, ch 103 IAB 12/11/24 Regulatory Analysis	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa	December 31, 2024 9 to 9:30 a.m.
Definitions; licenses, registrations, and permits, chs 550, 551; standards— practice of pharmacy, ch 552; controlled and precursor substances, ch 553; operational standards— distribution and drug supply chain, ch 554; standards—drugs in emergency medical services programs, ch 555; Iowa prescription monitoring program, ch 556; board of pharmacy operations, ch 557 IAB 11/27/24 ARCs 8417C, 8419C to 8421C, 8423C, 8424C, 8428C	Suite 100 6200 Park Avenue Des Moines, Iowa	January 6, 2025 10:30 a.m. January 9, 2025 9:30 a.m.

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

Dentistry—dental board administration; dental board fees; licensure, registration, renewal and reinstatement; continuing education; standards of practice; dental assistants, dental radiography qualifications, and dental laboratory technicians; dental hygienists; expanded functions; prescribing, administering, and dispensing drugs; sedation and nitrous oxide; complaints and investigations; discipline, chs 570 to 581 IAB 12/11/24 ARCs 8476C, 8478C, 8487C, 8489C, 8495C, 8496C, 8497C, 8503C, 8504C, 8510C, 8511C, 8513C	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#	January 2, 2025 12 noon to 12:30 p.m. January 3, 2025 12 noon to 12:30 p.m.

INSURANCE DIVISION[191]

Timely payment of pharmacy claims, 59.3 IAB 11/27/24 ARC 8429C (See also ARC 8427C)	Suite 100 1963 Bell Avenue Des Moines, Iowa	December 19, 2024 10 to 11 a.m.

IOWA FINANCE AUTHORITY[265]

Red tape review, rescind chs 2, 4, 30, 32, 37, 38 IAB 12/11/24 ARC 8491C	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review/	January 7, 2025 1:30 to 1:45 p.m. January 9, 2025 1:30 to 1:45 p.m.

Title guaranty division, ch 9 IAB 12/11/24 ARC 8466C	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review/	January 7, 2025 2 to 2:15 p.m. January 9, 2025 2 to 2:15 p.m.

Public records and fair information practices, ch 13 IAB 12/11/24 ARC 8481C	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review/	January 7, 2025 2:15 to 2:30 p.m. January 9, 2025 2:15 to 2:30 p.m.

State housing trust fund, ch 19 IAB 12/11/24 ARC 8480C	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review/	January 7, 2025 1:45 to 2 p.m. January 9, 2025 1:45 to 2 p.m.

LABOR SERVICES DIVISION[875]

Description of organization and procedures before the division, rescind ch 1 IAB 11/27/24 ARC 8404C	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	December 17, 2024 12 noon to 12:15 p.m. December 19, 2024 3:30 to 3:45 p.m.

LABOR SERVICES DIVISION[875](cont'd)

Amusement ride inspections, ch 61; amusement rides, amusement devices, and concession booths, ch 62; bungee jumps, ch 63; construction contractor registration, ch 150 IAB 11/27/24 ARCs 8372C to 8375C	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	December 17, 2024 10 to 10:30 a.m. December 19, 2024 1:30 to 2 p.m.
Elevator safety board—petitions for rule making, declaratory orders, public records and fair information practices, rescind chs 67, 68, 70 IAB 11/27/24 ARCs 8362C, 8378C, 8379C	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	December 17, 2024 8:45 to 9 a.m. December 18, 2024 8:45 to 9 a.m.
Boiler and pressure vessel board—authority, waivers, petitions for rule making, declaratory orders, contested cases, public records and fair information practices, adopt chs 80, 81, 84; rescind chs 82, 83, 85 IAB 11/27/24 ARCs 8363C to 8365C, 8380C to 8382C	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa Pine Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	December 17, 2024 9 to 9:30 a.m. December 18, 2024 9 to 9:30 a.m.
Boiler and pressure vessel program, ch 90; requirements for all objects, ch 91; power boilers, ch 92; miniature power boilers installed prior to September 20, 2006, ch 93; steam heating boilers, hot water—heating boilers, supply boilers, ch 94; unfired steam pressure vessels, ch 96 IAB 11/27/24 ARCs 8366C to 8371C	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	December 17, 2024 9:30 to 10 a.m. December 19, 2024 1 to 1:30 p.m.
Asbestos removal and encapsulation, ch 155 IAB 11/27/24 ARC 8376C	Ledges Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	December 17, 2024 10:30 to 11 a.m. December 19, 2024 2 to 2:30 p.m.
Advisory board, rescind ch 170; grant applications and awards, ch 171; professional wrestling, ch 172; elimination tournaments, ch 174; amateur boxing, rescind ch 175; professional kickboxing, ch 176 IAB 11/27/24 ARCs 8386C, 8387C, 8390C to 8393C	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	December 17, 2024 11:30 a.m. to 12 noon December 19, 2024 3 to 3:30 p.m.

NATURAL RESOURCE COMMISSION[571]

Resource enhancement and protection program funds, 33.4(3), 33.19 to 33.30 IAB 12/11/24 Regulatory Analysis	Lake Darling Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa	January 8, 2025 10 a.m.

PHARMACY BOARD[657]

Agency realignment, rescind chs 1 to 8,
10 to 23, 25 to 37, 39 to 43, 100
IAB 11/27/24 **ARC 8422C**

Ledges Conference Room
6200 Park Avenue, Suite 100
Des Moines, Iowa
Also via Zoom

January 6, 2025
10:30 a.m.

January 9, 2025
9:30 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Congenital and inherited disorders, ch 4;
special supplemental nutrition program
for women, infants, and children
(WIC), rescind ch 73
IAB 12/11/24 **ARCs 8539C, 8543C**

Microsoft Teams
Meeting ID: 297 224 919 887
Passcode: TpBUop

January 16, 2025
10 to 11 a.m.

Microsoft Teams
Meeting ID: 255 649 705 881
Passcode: BsEBSV

January 21, 2025
2:30 to 3:30 p.m.

Approval of confirmatory laboratories for
private sector drug-free workplace
testing, ch 12; dental screening, 51;
vision screening, ch 52; childhood lead
poisoning prevention program, ch 72
IAB 12/11/24 **ARCs 8485C, 8507C,
8518C, 8528C**

Microsoft Teams
Meeting ID: 225 091 018 909
Passcode: hVKapN

January 14, 2025
2:30 to 3:30 p.m.

Microsoft Teams
Meeting ID: 260 724 672 894
Passcode: bWFD4e

January 17, 2025
1:30 to 2:30 p.m.

Red tape review, rescind chs 20, 50, 55,
71, 74, 78, 87, 114, 138, 158
IAB 12/11/24 **ARCs 8492C, 8494C,
8498C, 8499C, 8500C, 8501C, 8502C,
8509C, 8520C, 8527C**

Microsoft Teams
Meeting ID: 281 130 323 441
Passcode: XDpFQ2

January 14, 2025
9 to 10 a.m.

Microsoft Teams
Meeting ID: 254 845 374 808
Passcode: hPYxD2

January 17, 2025
9 to 10 a.m.

Family planning services funding
prioritization, restrictions and
reporting; distribution of federal funds
restrictions—provider identification
and attestation, ch 75; maternal and
child health program, ch 76; parental
notification of intent to terminate a
pregnancy through abortion, ch 89
IAB 12/11/24 **ARCs 8471C, 8521C,
8530C**

Microsoft Teams
Meeting ID: 240 123 537 880
Passcode: 4MT8Ac

January 15, 2025
10 to 11 a.m.

Microsoft Teams
Meeting ID: 273 055 800 019
Passcode: FggQZn

January 17, 2025
2:30 to 3:30 p.m.

Trauma care facility categorization and
verification, ch 134; trauma triage and
transfer protocols, ch 135; trauma
registry, ch 136; trauma education and
training, ch 137; EMS—training
programs—students—complaints and
investigations, ch 139; EMS system
development grants fund, ch 140; Iowa
regionalized system of perinatal health
care, ch 150; standards for substance
abuse treatment and assessment
programs and the OWI law, ch 157
IAB 12/11/24 **ARCs 8512C, 8515C,
8517C, 8523C, 8526C, 8532C, 8538C,
8542C**

Microsoft Teams
Meeting ID: 264 876 129 663
Passcode: PMYX8N

January 15, 2025
1 to 2 p.m.

Microsoft Teams
Meeting ID: 287 123 907 580
Passcode: hbQXQA

January 21, 2025
9 to 10 a.m.

RACING AND GAMING COMMISSION[491]

Sports wagering; fantasy sports contests,
13.2, 13.5, 13.6(3), 14.7(2), 14.8
IAB 12/11/24 **ARC 8475C**

Commission Office
6200 Park Suite 100
Des Moines Iowa

January 2, 2025
9 a.m.

SECRETARY OF STATE[721]

Agricultural reporting, 4.2(3)
IAB 12/11/24
Regulatory Analysis

Via videoconference
meet.google.com/bgd-sijt-agq

December 31, 2024
10 to 11 a.m.

NIST special publications—dates certain,
29.4, 43.9
IAB 12/11/24
Regulatory Analysis

Via videoconference
meet.google.com/bgd-sijt-agq

December 31, 2024
11 a.m. to 12 noon

Fees—mark applications, assignments,
cancellations, 40.5(13)
IAB 12/11/24
Regulatory Analysis

Via videoconference
meet.google.com/bgd-sijt-agq

December 31, 2024
12 noon to 1 p.m.

Mechanics' notice and lien registry—
notice of commencement of work,
preliminary notice, 45.4, 45.5
IAB 12/11/24
Regulatory Analysis

Via videoconference
meet.google.com/bgd-sijt-agq

December 31, 2024
1 to 2 p.m.

TRANSPORTATION DEPARTMENT[761]

Procurement of equipment, materials,
supplies and services, ch 20
IAB 12/11/24 **ARC 8486C**

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 427 298 056
[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 325 178 868

January 7, 2025
10 to 10:30 a.m.

January 7, 2025
2 to 2:30 p.m.

Competition with private enterprise, ch
25
IAB 12/11/24 **ARC 8483C**

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 762 953 536
[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 626 928 674

January 7, 2025
11 to 11:30 a.m.

January 7, 2025
3 to 3:30 p.m.

Secondary road fund distribution
methodology, ch 103
IAB 12/11/24 **ARC 8482C**

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 242 813 366

January 6, 2025
10 to 10:30 a.m.

Signing—on primary highways, for Iowa
medal of honor highway, ch 131
IAB 12/11/24 **ARC 8467C**

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 884 467 433
[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 369 976 022

January 6, 2025
9 to 9:30 a.m.

January 6, 2025
2 to 2:30 p.m.

TRANSPORTATION DEPARTMENT[761](cont'd)

County and city bridge construction funds, ch 160 IAB 11/13/24 ARC 8333C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 642 335 738 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 434 886 27	December 11, 2024 9 to 9:30 a.m. December 11, 2024 2 to 2:30 p.m.
Surface transportation block grant program, ch 162 IAB 12/11/24 ARC 8479C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 302 560 536 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 838 751 499	January 6, 2025 11 to 11:30 a.m. January 6, 2025 3 to 3:30 p.m.
RISE program, ch 163 IAB 11/27/24 ARC 8383C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 833 405 957 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 380 796 904	December 17, 2024 10 to 10:30 a.m. December 17, 2024 1 to 1:30 p.m.
Recreational trails program, ch 165 IAB 11/27/24 ARC 8384C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 602 779 338 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 377 975 306	December 17, 2024 11 to 11:30 a.m. December 17, 2024 2 to 2:30 p.m.
Project cost reporting requirements for cities and counties, ch 178 IAB 11/27/24 ARC 8388C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 929 698 148 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 776 823 181	December 20, 2024 10 to 10:30 a.m. December 20, 2024 2 to 2:30 p.m.
Quotation process for governmental entities for public improvement for vertical infrastructure, ch 180 IAB 12/11/24 ARC 8490C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 260 760 222 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 952 817 462	January 8, 2025 9 to 9:30 a.m. January 8, 2025 1 to 1:30 p.m.
Driver's privacy protection—motor vehicle records, ch 301 IAB 12/11/24 ARC 8484C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 578 341 138 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 418 156 888	January 6, 2025 9 to 9:30 a.m. January 6, 2025 1 to 1:30 p.m.

TRANSPORTATION DEPARTMENT[761](cont'd)

Motor vehicles operated by an automated driving system, ch 380 IAB 11/27/24 ARC 8389C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 601 624 290 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 707 255 004	December 18, 2024 11 to 11:30 a.m. December 18, 2024 3 to 3:30 p.m.
Salvage and other title designations, ch 405 IAB 11/27/24 ARC 8394C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 554 899 140 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 477 239 080	December 18, 2024 9 to 9:30 a.m. December 18, 2024 2 to 2:30 p.m.
Persons with disabilities parking permits, ch 411 IAB 11/27/24 ARC 8395C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 853 336 648 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 387 451 849	December 19, 2024 9 to 9:30 a.m. December 19, 2024 2 to 2:30 p.m.
Motor vehicle equipment; equipment and inspection requirements for certain motor vehicles, ch 450 IAB 12/11/24 ARC 8474C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 750 118 245 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 741 069 091	January 6, 2025 10 to 10:30 a.m. January 6, 2025 2 to 2:30 p.m.
Towing wrecked or disabled vehicles, ch 454 IAB 12/11/24 ARC 8488C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 827 964 961 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 652 740 49	January 6, 2025 1 to 1:30 p.m. January 7, 2025 1 to 1:30 p.m.
Abandoned vehicles, ch 480 IAB 11/27/24 ARC 8396C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 128 757 28 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 486 446 185	December 19, 2024 11 to 11:30 a.m. December 19, 2024 3 to 3:30 p.m.
Sanctions, ch 615 IAB 12/11/24 ARC 8477C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 970 160 824 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 227 968 616	January 7, 2025 10 to 10:30 a.m. January 7, 2025 2 to 2:30 p.m.

TRANSPORTATION DEPARTMENT[761](cont'd)

Driver education, ch 634 IAB 12/11/24 ARC 8470C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 824 420 750 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 668 291 488	January 9, 2025 9 to 9:30 a.m. January 9, 2025 1 to 1:30 p.m.
Motorcycle rider education (MRE), ch 635 IAB 12/11/24 ARC 8472C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 631 843 106 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 629 845 33	January 9, 2025 10 to 10:30 a.m. January 9, 2025 2 to 2:30 p.m.
Motorized bicycle rider education, ch 636 IAB 11/27/24 ARC 8397C	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 989 276 848 Microsoft Teams link Or dial: 515.817.6093 Conference ID: 827 156 746	December 20, 2024 10 to 10:30 a.m. December 20, 2024 2 to 2:30 p.m.
UTILITIES COMMISSION[199] Rate cases, tariffs, and rate regulation election practice and procedure, ch 26 IAB 11/27/24 ARC 8406C	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	December 18, 2024 9 to 11 a.m. December 30, 2024 2 to 4 p.m.
Equipment distribution program, ch 37 IAB 12/11/24 ARC 8431C	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	January 15, 2025 9 to 11 a.m. January 23, 2025 2 to 4 p.m.
Universal service, ch 39; certificates of franchise authority for cable and video service, ch 44 IAB 10/30/24 ARCs 8277C, 8315C	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa	December 12, 2024 2 to 4 p.m.

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Employer's contribution and charges, ch 23 IAB 11/27/24 ARC 8408C	Lobby Conference Room 1000 East Grand Avenue Des Moines, Iowa Microsoft Teams Meeting ID: 285 219 860 273 Passcode: jVkDRB Dial in by phone +1 469.998.6043 Find a local number Phone conference ID: 881 052 296#	December 17, 2024 9 to 10 a.m. December 17, 2024 1 to 2 p.m.

The following list will be updated as changes occur.

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

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

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

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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
OMBUDSMAN[141]
CIVIL RIGHTS COMMISSION[161]
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 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
UTILITIES COMMISSION[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Historical Division[223]
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 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
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 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
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 Public Broadcasting Division[288]
 School Budget Review Committee[289]
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ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
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FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
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 Child Advocacy Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
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IOWA PUBLIC INFORMATION BOARD[497]
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LIVESTOCK HEALTH ADVISORY COUNCIL[521]
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 City Finance Committee[545]
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 Environmental Protection Commission[567]
 Natural Resource Commission[571]
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PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
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PUBLIC HEALTH DEPARTMENT[641]
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 Medicine Board[653]
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REVENUE DEPARTMENT[701]
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INSPECTIONS AND APPEALS DEPARTMENT[481]

Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 52
“Dependent Adult Abuse in Facilities and Programs”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 235E.2 and 235E.5

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 235E as amended by 2024 Iowa Acts, House File 2390

Public Hearing

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

January 14, 2025
10 to 10:30 a.m.

Pine Conference Room
6200 Park Avenue
Des Moines, Iowa

Virtual participation information will be available on the Department of Inspections, Appeals, and Licensing website prior to the public hearing.

Public Comment

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

Jamie West
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.981.8206
Email: jamie.west@dia.iowa.gov

Purpose and Summary

This proposed rulemaking repromulgates Chapter 52 and implements Iowa Code chapter 235E as amended by 2024 Iowa Acts, House File 2390, in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code section 235E.5 provides that the Department, in cooperation and consultation with affected industry representatives and professional consumer groups, may adopt rules pursuant to Iowa Code chapter 17A to administer Iowa Code chapter 235E (dependent adult abuse in facilities and programs). In addition, Iowa Code section 235E.2 requires that the Department adopt rules that require facilities and programs to separate an alleged dependent adult abuser from a victim following an allegation of perpetration.

This rulemaking implements the aforementioned Iowa Code sections by implementing the statute that governs dependent adult abuse in facilities and programs and ensuring an efficient process with effective oversight and regulation, consistent with applicable federal regulations.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Not applicable.

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

This proposed rulemaking updates the rules in association with revisions to Iowa Code chapter 235E as amended by 2024 Iowa Acts, House File 2390. The general public and regulated entities will benefit from clear and consistent implementation of revised Iowa Code chapter 235E.

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

- **Quantitative description of impact:**

This proposed rulemaking has no effect on the substantive regulatory standards beyond conformance with revised Iowa Code chapter 235E. No quantitative impact is anticipated.

- **Qualitative description of impact:**

This proposed rulemaking has no effect on the substantive regulatory standards beyond conformance with revised Iowa Code chapter 235E. No qualitative impact is anticipated.

3. Costs to the State:

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

There are no implementation or enforcement costs borne by the Department or any other agency. Implementation will be through current personnel implementing this chapter.

- **Anticipated effect on state revenues:**

There is no anticipated effect on state revenues.

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

There are no specific financial costs to implement or enforce this rulemaking outside of any costs associated with the Department's statutory duties identified. The costs of this rulemaking are directly associated with the Department's general functions. This rulemaking does not add to the costs of the Department or public in excess of general functions. The benefits include clear and consistent implementation of applicable Iowa Code provisions.

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

The Department believes that it has utilized the least costly and least intrusive method of implementing revised Iowa Code chapter 235E.

6. Alternative methods considered by the agency:

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

No alternative methods of implementation were identified.

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

No alternative methods of implementation were identified.

Small Business Impact

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

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

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

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

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

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

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

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind 481—Chapter 52 and adopt the following **new** chapter in lieu thereof:

CHAPTER 52
DEPENDENT ADULT ABUSE IN FACILITIES AND PROGRAMS

481—52.1(235E) Definitions. The definitions set forth in Iowa Code section 235E.1 are incorporated herein by reference. For purposes of this chapter, unless the context otherwise requires, the following definitions apply:

“*Caretaker*” means a person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court. For the purpose of an allegation of exploitation, if the caretaker-dependent adult relationship started when a staff member was employed in the facility, the staff member may be considered a caretaker after employment is terminated.

“*Dependent adult abuse*” means any of the following as a result of the willful misconduct or gross negligence or reckless act or omission of a caretaker, taking into account the totality of the circumstances: physical injury, unreasonable confinement, unreasonable punishment, assault, sexual offense, sexual exploitation, exploitation, neglect, or personal degradation.

“*Gross negligence*” means an act or omission that signifies more than ordinary inadvertence or inattention, but less than conscious indifference to consequences; and, in other words, means an extreme departure from the ordinary standard of care.

“*Immediately*,” for purposes of mandatory reporters’ reporting of suspected dependent adult abuse, means within 24 hours.

“*Inspector*” means a surveyor or investigator with the department or any department designee.

“*Misappropriates*” means taking unfair advantage of or wrongfully or dishonestly exercising control over property.

“*Physical injury*” means a physical injury, or injury that is at a variance with the history given of the injury, which involves a breach of skill or care or learning ordinarily exercised by a caretaker in similar circumstances. “Physical injury” includes damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue that results in the death of the person who has sustained the damage.

“*Registry*” means the central registry for dependent adult abuse information established in Iowa Code section 235B.5.

“*Report*” means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.

“*Resident*” means a resident of a health care facility as defined in Iowa Code chapter 135C, a patient in a hospital as defined in Iowa Code chapter 135B, a tenant of an assisted living program as defined in Iowa Code chapter 231C, a tenant in an elder group home as defined in Iowa Code chapter 231B, or a participant in an adult day services program as defined in Iowa Code chapter 231D.

“*Sexual exploitation*” means any consensual or nonconsensual sexual conduct with a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. “Sexual exploitation” includes but is not limited to:

1. Kissing;
2. Touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals;
3. A sex act as defined in Iowa Code section 702.17;

4. The transmission, display or taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment, care, monitoring, assessment or diagnosis or as part of an ongoing evaluation or investigation.

“Sexual exploitation” does not include touching that is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

“*Sexual offense*” means the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.

“*Staff member*” means an individual who provides direct or indirect treatment or services to residents in a facility or program. Specifically included in the definition of “staff member” is an employee, health care employment agency worker, or other independent contractor who otherwise meets the definition. Direct treatment or services include those provided through person-to-person contact. Indirect treatment or services include those provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance. Specifically excluded from the definition of “staff member” are individuals such as part-time volunteers, building contractors, repair workers or others who are in a facility or program for a very limited purpose, are not in the facility or program on a regular basis, or do not provide any treatment or services to the residents of the facility or program.

“*Unreasonable confinement*” means confinement that includes but is not limited to the use of restraints, either physical or chemical, for the convenience of staff. “Unreasonable confinement” does not include the use of confinement and restraints if the methods are employed in conformance with state and federal standards governing confinement and restraint or as authorized by a physician or physician extender.

“*Unreasonable punishment*” means a willful act or statement intended by the caretaker to punish, agitate, confuse, frighten, or cause emotional distress to the dependent adult. Such willful act or statement includes but is not limited to intimidating behavior, threats, harassment, deceptive acts, or false or misleading statements.

“*Willful misconduct*” means an intentional act of unreasonable character committed with disregard for a known or obvious risk that is so great as to make it highly probable that harm will follow.

481—52.2(235E) Reporting.

52.2(1) The following persons shall report suspected dependent adult abuse in accordance with subrule 52.2(2).

a. A staff member. Specifically excluded from the definition of “staff member” only for purposes of the requirements set forth in this subrule are individuals who have no contact or de minimis contact with residents in a facility or program.

b. Entities as set forth in 481—Chapter 55.

52.2(2) Reporting procedures include the following:

a. If a staff member or employee is required to make a report pursuant to this rule, the staff member or employee shall immediately notify the person in charge or the person’s designated agent, who shall then notify the department within 24 hours of such notification or the next business day.

b. If the person in charge is the alleged perpetrator of dependent adult abuse, the staff member shall directly report the abuse to the department within 24 hours or the next business day.

c. Nothing prevents any person from notifying the department directly of suspected abuse.

d. The employer or supervisor of a person who is required to or may make a report pursuant to this rule shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

e. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person should also immediately make an oral report to an appropriate law enforcement agency.

f. A report of suspected dependent adult abuse should contain as much of the following information as possible:

- (1) The date and time of the incident;
- (2) The name, date of birth and diagnoses of the dependent adult;
- (3) Whether the dependent adult sustained an injury and, if yes, whether photographs of the injury were taken;
- (4) The nature and extent of the dependent adult abuse, including evidence of previous dependent adult abuse allegations;
- (5) A list of the staff members working at the time of the incident, including each staff member's full name, title, date of birth, address and telephone number;
- (6) The full name, title, date of birth, social security number, address, and telephone number of the alleged perpetrator of dependent adult abuse;
- (7) Other information that might be helpful in establishing the cause of the abuse, establishing the identity of the person or persons responsible for the abuse, or providing assistance to the dependent adult; and
- (8) The name, address, and telephone number of the person making the report.

52.2(3) A report will be accepted whether or not it contains all of the information requested. When the report is made to any agency other than the department, that agency will promptly refer the report to the department.

52.2(4) A person required to report abuse who knowingly and willfully fails to do so within 24 hours may be subject to criminal penalties and civil liability as provided for by statute.

52.2(5) Interference with a person required to report.

a. It is unlawful for any person or employer to discharge, suspend, or otherwise discipline a person for any of the following:

- (1) Reporting suspected dependent adult abuse;
 - (2) Cooperating with or assisting the department in evaluating a report or investigating a case of dependent adult abuse; or
 - (3) Participating in judicial proceedings relating to dependent adult abuse.
- b.* A person in violation of this subrule may be guilty of a simple misdemeanor.

481—52.3(235E) Reports and central registry.

52.3(1) *Receipt and evaluation of reports.* The department receives and evaluates reports of dependent adult abuse in facilities and programs. Upon receipt of a report, the department will conduct an intake sufficient to determine whether the allegation constitutes dependent adult abuse.

52.3(2) *Central registry.* The department will inform the department of health and human services of such evaluations and dispositions for inclusion in the central registry for dependent adult abuse information pursuant to Iowa Code section 235B.5.

52.3(3) *Reports to and from the department of health and human services.* The department will transfer any reports received of dependent adult abuse in the community to the department of health and human services.

52.3(4) *Reports that are minor, isolated, and unlikely to reoccur.*

a. First instance. A report of dependent adult abuse that meets the definition of “dependent adult abuse” as defined in Iowa Code section 235E.1(5) “a”(1)(a) or (d), or section 235E.1(5) “a”(3), which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department of health and human services for a five-year period, shall not be included in the central registry, and shall not be considered founded dependent adult abuse.

b. Subsequent instance(s). A subsequent report of dependent adult abuse that meets the definition of “dependent adult abuse” as defined in Iowa Code section 235E.1(5) “a”(1)(a) or (d), or

section 235E.1(5)“a”(3), that occurs within the five-year period, and that is committed by the same caretaker may also be considered minor, isolated, and unlikely to reoccur, depending on the totality of circumstances.

c. Retention. All initial and subsequent reports are collected and maintained by the department of health and human services until a five-year period has expired, so long as no additional reports have been filed.

481—52.4(235E) Separation mandatory. Upon receipt of a report of alleged dependent adult abuse in a facility or program, the facility or program shall separate the victim and the alleged perpetrator of dependent adult abuse immediately and maintain that separation until the department’s abuse investigation is completed and the abuse determination is made.

NOTE: Facilities that participate in the federal Medicare or Medicaid program may be subject to additional federal requirements regarding separation.

481—52.5(235E) Interviews, examination of evidence, and investigation.

52.5(1) *Entering and examination of evidence.* An inspector of the department may enter any facility or program without a warrant and may examine all records and items pertaining to residents, employees, former employees, and the alleged perpetrator of dependent adult abuse and any other records and items necessary to ensure the integrity of the investigation unless the record or item is protected by some other legal privilege.

52.5(2) *Interviews.*

a. An inspector of the department may contact or interview any resident, employee, former employee, or any other person who may have knowledge about the alleged dependent adult abuse.

b. An alleged perpetrator of dependent adult abuse may request to have an attorney present at the alleged perpetrator’s own expense at any time during the interview, but the request may not unreasonably delay the investigation. An employee organization representative or union representative may observe an investigative interview conducted by the department of an alleged perpetrator of dependent adult abuse if all of the conditions set forth in Iowa Code section 235E.2(13)“a” are met.

The purpose of the interview is a civil administrative dependent adult abuse investigation under applicable law.

52.5(3) *Photographs.* An inspector may take or cause to be taken photographs of the dependent adult abuse victim and the vicinity involved in accordance with Iowa Code section 235E.2(12).

52.5(4) *Evaluating information.* The department will consider the information as reported, other known or discovered information, and any information gathered as a result of the inspector’s contact with collateral sources, including prior abuse allegations and disciplinary actions.

481—52.6(235E) Notification to subsequent employers. The department will notify a facility or program that subsequently employs a founded dependent adult abuser in accordance with Iowa Code section 235E.2(11).

These rules are intended to implement Iowa Code chapter 235E.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 103
“Bingo”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 99B.2

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 99B; 2024 Iowa Acts, Senate File 2071; and Executive Order 10 (January 10, 2023)

Public Hearing

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

December 31, 2024
9 a.m.

Ledges Conference Room
6200 Park Avenue
Des Moines, Iowa

Virtual participation information will be available on the Department of Inspections, Appeals, and Licensing website prior to the public hearing.

Public Comment

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

Amy Oetken
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.672.4929
Email: amy.oetken@dia.iowa.gov

Purpose and Summary

This proposed rulemaking repromulgates Chapter 103 and implements Iowa Code chapter 99B as amended by 2024 Iowa Acts, Senate File 2071, in accordance with the goals and directives of Executive Order 10. Iowa Code section 99B.2 provides that the Department may adopt rules to carry out the provisions of Iowa Code chapter 99B pursuant to Iowa Code chapter 17A. The rules may include but are not limited to descriptions of books, records, and accounting required, as well as requirements for qualified organizations, as defined in Iowa Code section 99B.1(29). The rules may also include methods of displaying costs, explanations of games and rules, and definitions of unfair or dishonest games, acts, or practices.

This rulemaking implements the aforementioned Iowa Code sections by describing what qualifies as a bingo game, confirming that a license is required to conduct a bingo occasion, and setting forth the exceptions to that requirement. The rulemaking describes the way that costs and explanations of games and rules must be displayed and the appropriate prizes that can be awarded. The rulemaking explains what qualifies as reasonable expenses for a bingo event and sets forth the necessary bookkeeping and recordkeeping processes. Notably, the rulemaking also implements Senate File 2071, which increases the aggregate value of merchandise prizes and the price to play bingo.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

Members of the industry will bear the costs of this rulemaking by operating in compliance. Stakeholders will be responsible for purchase and maintenance of bingo equipment and necessary records. These costs are part of the normal operational costs for a bingo occasion. License fees are set forth statutorily in Iowa Code section 99B.12.

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

Members of the public will benefit from the proposed rulemaking by participating in bingo games that are fair and honest. The industry will benefit from standards for bingo occasions, recordkeeping, and accounting that are clear and easily understood.

The purpose of the bingo occasion is to generate revenue that must be used for a charitable, religious, educational, civic, public, or patriotic purpose. The rulemaking ensures that the maximum revenue is generated to meet those purposes, which benefits the recipients.

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

• **Quantitative description of impact:**

The costs associated with the rulemaking are related to the adoption and implementation of appropriate operational policies and are not directly incurred due to the rulemaking. The costs include the purchase of a bingo machine from a licensed manufacturer or distributor and maintenance of the machine. There are additional costs to conduct bingo games, including the costs of purchasing bingo sheets and markers from a licensed manufacturer or distributor. These costs are difficult to quantify.

• **Qualitative description of impact:**

The proposed rulemaking promotes fair play and transparency in bingo occasions. Qualified organizations use the bingo occasions to raise money for charitable or fundraising purposes. The rulemaking ensures that the proceeds are used for their intended purpose and that there are no unfair or dishonest games, acts, or practices.

Most states allow bingo to be conducted. Many of those states require that the bingo proceeds are used for charitable and fundraising purposes. Each state has rules that are tailored to meet the needs of the state to ensure the bingo occasions produce the maximum return for the charitable or fundraising goal. For example, Nebraska, Illinois, Missouri, and Wisconsin require a license to conduct bingo events, which is similar to Iowa.

3. Costs to the State:

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

Costs to the Department include the costs to issue licenses, educate licensees, investigate complaints, and enforce regulations. Bingo accounts for approximately 20 percent of licenses issued by the social and charitable gambling unit. The social and charitable gambling unit has two full-time employees who work with the bingo licensees, among other duties, which costs approximately \$58,248.88 annually. These costs are statutorily required to achieve the goals of Iowa Code chapter 99B.

• **Anticipated effect on state revenues:**

There is no anticipated effect on state revenues. There are no proposed changes to the fee structure, which is set forth in Iowa Code section 99B.12. Costs to the Department are described above and are not anticipated to increase.

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

There are no specific financial costs to implement or enforce this rulemaking outside of any costs associated with the Department's statutory duties. The costs of this rulemaking are directly associated with the Department's general functions. This rulemaking does not add to the costs of the Department or public in excess of general functions. The benefits are described above and additionally include clear and consistent implementation of applicable Iowa Code provisions.

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

As described above, there are no substantive changes proposed in this rulemaking affecting costs. No less costly or less intrusive methods for achieving the purpose of the proposed rulemaking have been identified.

6. Alternative methods considered by the agency:

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

Response in Section “5” above.

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

Response in Section “5” above.

Small Business Impact

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

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

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

The organizations engaged in bingo occasions are required to be nonprofit organizations that exist for other purposes outside of bingo. Most are small organizations. Iowa Code chapter 99B does not allow for exemptions or different standards for small organizations. The statutory fees are the same no matter the size of the nonprofit organization. The necessity for consistency and fairness in bingo occasions is the same whether the organization is small or large. Notwithstanding, if a small organization identifies a portion of the rulemaking that is overly burdensome and the goals can be accomplished in a manner that would reduce the impact of the rulemaking to the organization, the Department’s established waiver process could be utilized.

Text of Proposed Rulemaking

ITEM 1. Rescind 481—Chapter 103 and adopt the following **new** chapter in lieu thereof:

CHAPTER 103
BINGO

481—103.1(99B) Definitions. In addition to definitions found in Iowa Code chapter 99B and in rule 481—100.1(99B), the following definitions apply to all qualified organizations where bingo is played.

“*Cash*” means any legal tender of the United States.

“*Category*” means the name given to a particular type of playing face to distinguish one from another.

“*Playing face*” means the grid on which a player marks numbers and letters called as the game progresses.

481—103.2(99B) License.

103.2(1) A license is required to conduct a bingo occasion unless the requirements of Iowa Code section 99B.23 are met.

103.2(2) Bingo occasions are restricted to the location for which application is made by the qualified organization and approved by the department. For good cause, a license may be transferred to a different location after written notice by the licensee and approval by the department. “Good cause,” for purposes of this subrule, may include flood, fire or other natural disasters; sale of the building; or nonrenewal of lease.

103.2(3) Before any organization may conduct bingo, a license application must be approved by the department. Application and license requirements are found in rules 481—100.3(99B), 481—100.4(99B), and 481—100.5(99B).

103.2(4) Bingo occasions may be held as frequently as set forth in Iowa Code section 99B.12. A week starts on Sunday and ends on Saturday. At the end of each occasion, the person conducting the games shall announce both the gross receipts and the use to which the net receipts will be dedicated and distributed.

481—103.3 Reserved.

481—103.4(99B) Game of bingo. Each game shall meet the requirements of “bingo” as defined in Iowa Code section 99B.1(6) to be a legal game of bingo.

103.4(1) A fair and legal game shall meet all of the following criteria:

- a.* There will be no concealed numbers on a playing face.
- b.* There will be an announcer or caller.
- c.* Numbers will be announced so all players can hear clearly.
- d.* A free space or spaces are allowed.
- e.* The caller selects and announces the numbers. If a caller miscalls a number or misreads a ball, only the number on the ball may be used. Miscalled numbers are invalid.
- f.* The licensee may require that a player have the last number called for a bingo if posted in the rules established by the licensee.
- g.* Each game ends when it is determined that a player has covered the announced pattern of spaces. The caller or another worker verifies the numbers on winning cards. The caller checks for additional bingos and officially closes the game.

h. Wild numbers are allowed if chosen using a random selection method.

103.4(2) Any player may request that balls drawn and not drawn be inventoried when the winning card or cards are verified in the presence of the responsible party or the responsible party’s designee and the caller. The player who requested verification may observe the count.

103.4(3) The cost to play shall be in accordance with the following:

- a.* The cost of each game will not exceed \$50;
- b.* Cards or games may only be sold within the premises of the bingo occasion and will have a posted price;
- c.* The cost of each packet, playing face, or tear sheet will be the same for each participant;
- d.* Payment will be made in a form provided in Iowa Code section 99B.5(2);
- e.* Free games will not be given, including gift cards redeemable for games. Free concession items, such as food, beverages or daubers, are permitted.

103.4(4) Cards for each category shall be distinctly marked and easy to distinguish from all others.

- a.* Bingo games or cards may only be printed on one side.
- b.* In each game, the bingo operator must ensure that duplicate playing faces are not sold.

481—103.5(99B) State rules and rules established by the licensee. 481—Chapter 103 and house rules established by the licensee must be readily available to every bingo player during every bingo occasion, with rules established by the licensee posted on a sign near the front of the playing area.

103.5(1) Posted rules shall be in large, easily readable print and include:

- a. The name and mailing address of the licensee;
- b. Prices to play; and
- c. How to indicate “bingo” to halt the game and collect a prize.

103.5(2) Rules related to reserved seating and age restrictions for children to play may be included.

103.5(3) The following information shall be posted before the beginning of each bingo occasion and not be changed after the bingo occasion begins:

- a. Description of each game to be played, including an example of the winning pattern;
- b. Price of each game;
- c. Prize for each game or method for determining the prize for each game; and
- d. Jackpot rules if jackpot games will be played.

481—103.6(99B) Prizes. Cash and merchandise prizes are subject to the limits set forth in Iowa Code section 99B.21. The exact amount of the prize shall be announced before the beginning of each game.

103.6(1) Prizes shall be recorded each occasion on the daily bingo summary (Table A—end of this chapter) as they are paid by listing the number of the game; the winning pattern; the type, color, and series of cards used in the game; the amount of the prize; and the name, address, and social security number of each winner of any prize over \$600. Cash prizes over \$600 require the deduction of 5 percent withholding taxes as set forth in Iowa Code section 99B.8.

103.6(2) Cash prizes awarded in games with more than one winner shall be shared equally.

a. It is permissible to round up or down, provided doing so does not exceed the maximum payout for that particular game.

b. Examples of prizes awarded in games with more than one winner:

(1) Two winners with a total of three bingos: Player 1 has two bingos in separate squares, and Player 2 has one bingo in one square. Player 1 receives 2/3 of the prize, and Player 2 receives 1/3 of the prize.

(2) Multiple winners equally splitting a prize with rounding to the nearest dollar: Six players all win the single \$250 prize. The appropriate payout is \$41.66 each, but rounding to the nearest dollar (\$42) for each winner would result in a payout of \$252, in violation of the maximum payout for a nonjackpot bingo game.

103.6(3) A licensed qualified organization shall have rules governing how a merchandise prize is awarded when there is more than one winner, posted in accordance with rule 481—103.5(99B). The organization must:

a. Split the cash equivalent of the merchandise prize equally among the winners so long as the retail value of the merchandise prize is \$250 or less;

b. Provide a substitute merchandise prize with an aggregate retail value approximately equal to that of the designated prize so long as the aggregate retail value of all prizes is \$950 or less; or

c. Conduct a continuous or separate playoff bingo game consisting of only the winning players.

103.6(4) An animal shall not be awarded as a prize for persons participating in a game or fair event.

103.6(5) A player shall not be required to return cash or a merchandise prize won in one game in order to play a subsequent game.

103.6(6) Jackpot games shall be conducted in accordance with Iowa Code section 99B.21(2) “d” and the following:

a. The jackpot prize will not decrease until it is won;

b. If a jackpot game is not won in accordance with the rules for the jackpot game, the game may transition to a consolation game with a prize of \$250 or less.

This rule is intended to implement Iowa Code sections 99B.21, 422.16, and 717D.2.

481—103.7(99B) Workers.

103.7(1) Each organization must have a responsible party listed on the application who is an active member of the organization, familiar with the requirements of the Iowa law and aware of the bingo activities of the organization.

103.7(2) Volunteers must be actively participating members of the licensed organization or participate in an organization to which money will be dedicated.

103.7(3) Paid workers shall not play during a bingo occasion in which they work. Persons conducting bingo shall not play during any bingo occasion conducted by the qualified organization for which they work. A person conducting bingo includes: persons overseeing the bingo games, persons controlling and accounting for the bingo occasion's net receipts, persons directing the work of bingo workers, and any persons having management or oversight responsibilities.

103.7(4) A person receiving rent for a bingo location, either directly or indirectly, shall not be involved in, participate in, or be associated with the operation of bingo games.

103.7(5) Anyone who sells bingo equipment or supplies to a bingo licensee shall not work for that licensee during a bingo occasion.

481—103.8(99B) Expenses.

103.8(1) The licensee shall be able to prove expenses were incurred exclusively and directly as a result of bingo and not exceed 40 percent of net receipts. Reasonable expenses within the 40 percent limit are:

- a.* The license fee;
- b.* Withholding, unemployment, or social security taxes;
- c.* Promotion cost;
- d.* Equipment and supply purchases;
- e.* Rent for bingo occasion;
- f.* Utilities for bingo occasion; and
- g.* Wages paid for bingo workers.

103.8(2) Expense items are allowed only when receipts or a paid invoice and canceled check are available for review by the department.

103.8(3) When the annual gross exceeds \$10,000, expenses shall be paid from a bingo checking account.

103.8(4) Expenses are not reasonable if the amount charged substantially exceeds the current rate or average retail cost of items or services purchased.

481—103.9(99B) Location. Bingo occasions may be conducted on premises as provided in Iowa Code section 99B.13 and shall meet the following criteria:

1. All buildings in which bingo occasions are conducted will meet state or local standards for occupancy and safety.
2. The name of the licensee will be posted on the sign of each building or location where bingo occasions are held. A name that is closely associated with the licensee and clearly identifies the lawful uses of the proceeds may also be used. Generic names, such as "Nelson Street Bingo" or "Uncle Bob's Bingo," will not be used.
3. During a bingo occasion, the lessor will not sell any beverage, food, or other merchandise in the room in which bingo is played.
4. Only one licensed qualified organization may conduct bingo occasions within the same structure or building.

481—103.10(10A,725) Advertising. An organization may advertise bingo or any gambling activities legal under Iowa law.

This rule is intended to implement Iowa Code section 725.12.

481—103.11(10A,99B) Equipment. Equipment shall be used as it is intended by the manufacturer and meet the following criteria.

103.11(1) Equipment will be owned by the licensed organization or borrowed from another qualified organization. Use of equipment for which the licensed organization pays consideration directly or indirectly under the guise of a service charge is not allowed. No licensed organization may loan or borrow equipment, goods, or services in exchange for supplies. Equipment should not be rented or leased, but the purchase of equipment on contract is allowed.

103.11(2) Equipment used to conduct bingo will be maintained in good repair and sound working condition. No equipment will be altered to create an advantage for anyone. Play will progress so all players have an equal opportunity to win. Balls will be the same size, shape, weight, and balance. Balls will tumble and circulate freely within the container during bingo games. All 75 balls will be in the container before each game begins.

481—103.12(99B) Records. Accurate records shall be retained for a period of three years and provided to the department for review upon request. The following records are required:

103.12(1) The daily bingo summary (Table A—end of chapter), including:

- a. The name of each worker;
- b. The social security number of paid workers;
- c. Compensation of any worker;
- d. The number of players present; and
- e. A list of all games played, including a description of each game, the cost to play each game, the number and category of bingo cards used for each game, and the prize or prizes paid in each game. The summary will include the totals for the occasion of the gross receipts, prizes awarded, and jackpot prize amounts.

f. The daily bingo summary will be signed by a caller and another member of the organization.

103.12(2) An organization having \$100,000 or more in bingo gross receipts per year must also comply with the following for each bingo occasion:

- a. Daily Bingo Summary—CASH CONTROL (Table B—end of chapter):
 - (1) Gross receipts, adjustments, prize payouts, and net receipts for each game played;
 - (2) Total net receipts, total cash counted, overage or shortage, and total amount to be deposited for the occasion; and
 - (3) Signed and dated by two members of the organization.

This form should correspond with the Daily Bingo Inventory Usage Form (Table B—end of chapter).

b. Daily Bingo Inventory Usage (Table C—end of chapter).

(1) For each loose sheet of bingo paper sold, the color, paper size, game(s) played, daily count start, purchases, voids, number of sheets sold, and daily count end.

(2) If packets are purchased preassembled, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end.

(3) If packets are assembled by the organization, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end. Each loose sheet of bingo paper used to assemble the packet will be accounted for by decreasing the applicable loose sheet bingo paper inventory under subparagraph 103.12(2)“b”(1) at the time of assembly.

103.12(3) Records of expenses and dedicated and distributed money are required as follows.

a. The following information will be retained for all payments:

- (1) Date of payment.
- (2) Payee.
- (3) Amount of payment.
- (4) Purpose of payment.

b. For checks, the purpose of payment will be recorded on the memo line of the check.

103.12(4) An employee record of people compensated for work at a bingo occasion shall be maintained that shows:

- a. Name, address, and social security number;
- b. Dates of employment;
- c. Times and number of hours worked;
- d. Wages paid;
- e. Amounts withheld;
- f. Check number.

The records must specifically identify for which bingo occasion an employee was compensated, whether or monetarily or otherwise.

103.12(5) An inventory list of the number of playing faces owned by the licensed organization is required to be updated each month.

481—103.13(99B) Bingo checking account. A qualified organization shall maintain a separate bingo checking account established within one day of attaining \$10,000 and as provided in Iowa Code section 99B.21(4).

103.13(1) Bingo receipts shall be deposited as provided in Iowa Code section 99B.21(4). Interest earned on deposits in a bingo checking or savings account shall be treated the same as proceeds of bingo occasions. Limited funds as described in Iowa Code section 99B.21(4) “a”(1) shall not exceed \$7,500. Records shall be kept that identify this money.

103.13(2) Payments shall be paid from the bingo account in accordance with the requirements of Iowa Code section 99B.21. Wages shall not be paid by cash.

103.13(3) The bingo account shall be used for both of the following events:

- a. One qualified organization satisfies the dedication requirement by donating funds to another organization over which the licensed organization has no control; or
- b. A qualified organization licensee is satisfying the dedication requirement by spending funds to further the charitable, educational, religious, public, patriotic, or civic purposes of its own organization.

481—103.14(10A,99B) Bingo savings account and bingo change fund.

103.14(1) *Bingo savings account.* When an organization places bingo receipts in any savings account, bingo funds shall be separate and recognizable from all other funds of the same organization. All funds in a bingo savings account shall be transferred into that account from a bingo checking account and transferred back to the bingo checking account before they are spent.

103.14(2) *Bingo change fund.* Moneys used as a change fund, if necessary, should be provided by the organization for each bingo occasion. The change fund can increase or decrease as appropriate for the anticipated participation in the bingo occasion. The balance of the change fund at the end of the fiscal year must be dedicated by July 30 and reported as set forth in rule 481—103.15(10A,99B). The fiscal year begins July 1 and ends June 30 of the following year. The change fund should be maintained in a secure manner.

481—103.15(99B) Annual gambling reports.

103.15(1) Each organization conducting bingo shall submit a report to the department as set forth in Iowa Code section 99B.16(3). When the due date is on Saturday, Sunday, or a legal holiday, the report is due the next business day.

103.15(2) Annual gambling reports may be completed online at dial.iowa.gov. A paper version of the annual gambling report may be obtained from the Social and Charitable Gambling Unit, Iowa Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Des Moines, Iowa 50321; or by telephone at 515.281.6848.

103.15(3) The department may require a qualified organization to submit records of specific occasions with the annual report.

103.15(4) All transactions of any school group or parent support group using a schoolwide license shall be on the annual report.

481—103.16(10A,99B) Inspections and audits. Licensed organizations may be inspected or audited by a representative of the department at any reasonable time.

481—103.17(99B) Electronic bingo.

103.17(1) A qualified organization may lease electronic bingo equipment, as defined in Iowa Code section 99B.11(1), from a manufacturer or distributor licensed by the department.

103.17(2) Electronic bingo equipment shall be used only by disabled individuals. For purposes of this rule, “disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

103.17(3) Electronic bingo devices shall be used in the following manner:

- a.* Each player may input into the device each number called, or the device may automatically daub each number as the number is called.
- b.* Each player will notify the game operator or caller of the winning pattern of bingo by means other than use of the electronic bingo device.
- c.* Each player is limited to playing a maximum of 54 card faces per game.
- d.* The cost per bingo game will be the same as it would be if the individual were to purchase the same amount of paper or hard cards.
- e.* Players of electronic bingo will not be required to play more cards than if using paper or hard cards.
- f.* Each electronic bingo device will produce a player receipt with the organization name, date, time, location, sequential transaction or receipt number, number of electronic bingo cards loaded, cost of electronic bingo cards loaded, and date and time of the transaction. Images of cards or faces stored in an electronic bingo device will be exact duplicates of the printed faces if the faces are printed.
- g.* The department may examine and inspect any electronic bingo device and related system. Such examination and inspection will include immediate access to the electronic bingo device and unlimited inspection of all parts and associated systems and may involve the removal of equipment from the game premises for further testing.
- h.* All electronic bingo devices will be loaded and enabled for play on the premises where the game will be played.
- i.* All electronic bingo devices will be rented or otherwise provided to a player only by a qualified organization, and no part of the proceeds of the rental of such devices will be paid to a landlord, a landlord’s employee or agent, or a member of the landlord’s immediate family.
- j.* If a player’s call of a bingo is disputed by another player, or if a department representative makes a request, one or more cards stored on an electronic bingo device will be printed by the organization.
- k.* Players may exchange a defective electronic bingo device for another electronic bingo device provided a disinterested player verifies that the device is not functioning.

This rule is intended to implement Iowa Code section 99B.21(3) “*b.*”

481—103.18(99B) Bingo at a fair or community festival. Bingo may lawfully be conducted at a fair or a community festival if the requirements of Iowa Code section 99B.22 are met. A qualified organization that has received permission from the sponsor of the fair or community festival to conduct bingo shall be licensed under Iowa Code section 99B.12.

These rules are intended to implement Iowa Code sections 99B.1 through 99B.7, 99B.11 through 99B.16, 99B.21 through 99B.23, and 99B.32.

IOWA DEPARTMENT OF INSPECTIONS,
APPEALS, AND LICENSING

DATE: _____

TABLE A

DAILY BINGO SUMMARY

Daily Cash Control Form users enter total only

[illegible]

DAILY RECAP

* Gross Receipts	\$ _____
** Less Cash Prizes	\$ _____
Total Deposit	\$ _____

SIGNATURES: _____ Date _____
 _____ Date _____

Iowa Department of Inspections, Appeals, and Licensing

Social and Charitable Gambling Unit

Daily Bingo Summary—INVENTORY USAGE

TABLE C

Licensee's Name:
Qualified Organization License #:
Address:
City, State, ZIP:

Today's Date: _____

Loose Sheet Bingo Paper Inventory								
Color	Paper Size	Game(s) Played	Daily Count Start	(+) Purchases	(-) Voids/ Packet Assembly	(-) # Sold	(+/- Over/ Under)	Daily Count End

Preassembled Bingo Packets								
Color on Top	Paper Size	Game(s) Played	Daily Count Start	(+) Purchases	(-) Voids	(-) # Sold	(+/- Over/ Under)	Daily Count End

Bingo Packets Assembled In-House								
When you assemble these packets, you must also decrease the applicable loose sheet bingo paper inventory above using the column Voids/Packet Assembly.								
Color on Top	Paper Size	Game(s) Played	Daily Count Start	(+) Assembled	(-) Voids	(-) # Sold	(+/- Over/ Under)	Daily Count End

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 33

“Resources Enhancement and Protection Program: County, City, Private Open Spaces and Conservation Education Grant Programs”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 455A.19

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 455A, subchapter II

Public Hearing

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

January 8, 2025
10 a.m.

Lake Darling Conference Room
6200 Park Avenue, Suite 200
Des Moines, Iowa

Public Comment

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

Michelle Wilson, REAP Coordinator
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.446.0535
Email: michelle.wilson@dnr.iowa.gov

Purpose and Summary

As part of 2024 Iowa Acts, Senate File 2385, effective July 1, 2024, the Resource Enhancement and Protection (REAP) Conservation Education Program funds are now administered by the Department and REAP Coordinator instead of by the Conservation Education Program Board. Due to this change, the Department is proposing this rulemaking to create a review and selection committee that will assist the REAP Coordinator in the award of Conservation Education Program grants and disbursement of funds.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There are no classes of persons who will bear the costs of the proposed rulemaking.

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

Citizens of Iowa, political subdivisions, and nongovernmental organizations will benefit from the proposed rulemaking.

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

- **Quantitative description of impact:**

Since 1989, REAP has been providing grant dollars to political subdivisions and nongovernmental organizations for the purpose of creating outdoor spaces for the citizens of Iowa. \$350,000 is awarded annually through REAP Conservation Education Program grants and disbursement of funds.

- **Qualitative description of impact:**

REAP funds are awarded to political subdivisions and nongovernmental subdivisions to build trails and parks. Funds awarded help build amenities and create spaces that are open and free for all citizens of Iowa to enjoy. These spaces provide opportunities to enhance tourism and economic development to an area, amplifying the impact and the use. REAP Conservation Education Program funds assist teachers, naturalists, higher education, and nongovernmental organizations in education of Iowans about natural resources and their role in protecting and conserving Iowa's soil, air, water, plants, and animals.

3. **Costs to the State:**

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

In order to create a simple and easy path for compliance during grant submittal periods, the Department has deployed an IT cloud-based solution, linked on the Department's website, so that eligible entities can submit grant applications and the review and selection committee has quick access to documents in order to conduct scoring and selection. Beyond the IT solution, the Department's main costs are to employ staff to support and run the grant programs.

- **Anticipated effect on state revenues:**

Creating communities that have opportunities for families to enjoy their limited leisure time is critical. Homeowners and business owners want to move and build in areas that offer these spaces. Creating these spaces and amenities helps make Iowa the place people want to live, which generally supports local economic activity and associated jobs and tax revenues.

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

Since 1989, the Department has administered grant programs for these accounts, distributing funds to eligible entities to provide for natural resource acquisition and management of public lands, upgrading or creating new public park facilities. REAP has affected all 99 counties either through grant-funded projects or the annual county allocation and per capita allocation dollars. The benefits of this program far exceed any cost to the Department in the administration of the program.

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

The proposed rulemaking is intended to be straightforward without a lot of nuance in order for the applicants to easily submit proposals for the review and select committee to evaluate and submit for award. The proposed rulemaking is intended to convey in the easiest terms the submission process, upon award, for reimbursement of costs to meet state audit requirements.

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

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

None; the proposed rulemaking was mandated by state law and is narrowly tailored to statutory requirements.

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

Not applicable.

Small Business Impact

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

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

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

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

No impact on small business is expected.

Text of Proposed Rulemaking

ITEM 1. Amend subrule 33.4(3) as follows:

33.4(3) Application deadlines are the same for county, city, and private open space grant programs. Conservation education program application deadlines are offered annually but not on the same schedule as the county, city, and private open space grant programs. Applications for all REAP grant programs will be reviewed and projects selected for funding at least once per year. The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website.

ITEM 2. Amend rule 571—33.19(455A) as follows:

571—33.19(455A) Conservation education program policy.

33.19(1) Grants and agreements. The conservation education program board shall constitute a long-term integrated effort to support conservation education ~~for Iowa educators and students through formal and nonformal education projects and programs by means of competitively awarded grants and cooperative agreements. To support this policy, the board may establish guidelines from time to time to direct applicants to priority areas for funding and shall give preference to grants that meet these guidelines. The board may provide funding for activities that expand the impact of the project and provide accessibility for widespread adoption of programs for implementation by others. The board may provide funding for tracking of project implementation and evaluation.~~

~~**33.19(1)** Conservation education program board. The board will review and amend, as needed, the review and selection criteria for competitive grants and policies of conduct.~~

33.19(2) *Definitions.* The following definitions shall apply to this division:

~~“Board” means REAP conservation education program board.~~

“Conservation education programs” means programs developed for formal (K-12 students), nonformal (preschool, adult and continuing education) and higher education (postsecondary and adult) programs, within the subject areas of natural resource conservation and environmental protection.

“Dissemination grant” means funds deployed for the purposes of executing projects previously funded by REAP conservation education program funds that were successful in execution and have transferability to other educators and conservation programs.

“Dissemination plan” means the required documentation for projects greater than \$10,000 funded by the REAP conservation education program funds. A dissemination plan contains specific details of the project, including expected outcomes essential for the uptake and use by educators and conservation programs.

“Educator” means any person who teaches environmental/conservation education. This may apply to certified teachers, governmental or private naturalists, education specialists, or others so determined by the ~~board~~ department.

“Environmental/conservation education materials” means materials that are developed or produced that provide knowledge, skills, processes and strategies that enhance Iowa citizens’ understanding of natural resources conservation and environmental issues.

“Stipends for Iowa educators who participate in innovative conservation education programs” may include tuition costs; acceptable food and lodging costs; substitute teacher costs; mileage expenses or separate allowances when applicable for educators to attend ~~board-approved~~ approved environmental/conservation education workshops, in-service programs and conferences; and other costs as approved by the ~~board~~ department.

ITEM 3. Amend rule 571—33.20(455A) as follows:

571—33.20(455A) Eligibility for funds. In years in which funds are made available, grant applications may be submitted by institutions of higher learning; government agencies, including local school districts; ~~nonpublic private schools and home schools~~; area education agencies; daycares; and organizations; ~~and individuals with an Iowa residence~~. Preference shall be given to Iowa ~~participants~~ residents.

33.20(1) Fund distribution. The total available funds will be distributed as follows:

a. The first \$50,000 will be awarded to public/private pre-K through 12 education disseminated as small grant awards not to exceed \$10,000 per request and no less than \$1,000 per request.

b. The next \$50,000 will be awarded to dissemination grants, if a dissemination project is provided by the department for the year.

c. The remaining \$250,000 will be awarded for large grant awards not to exceed \$80,000 per request. Large grant awards require a minimum of 33 percent matching funds either as an in-kind or cash match.

d. If all funds are not allocated through paragraphs 33.20(1) “a” and “b,” the remaining funds will be allocated to qualifying projects in paragraph 33.20(1) “c.”

33.20(2) Expenditure guidelines.

a. Eligible program types. Applicants can apply for funding that supports hands-on interactive types of educational experiences, such as workshops, trainings, field trips, or classroom activities, or passive education experiences, such as interpretive or wayside signs, brochures or video programming, or education center exhibits.

b. Personnel expenses. Requests for personnel expenditures shall not exceed 40 percent of the total grant request and can only be used for staff directly engaged with the educational offering. Administrative support personnel are not eligible grant fund expenses. An awardee will provide documentation on actual hours worked in order to receive the 40 percent reimbursement costs for personnel. This does not include educator stipends, funding provided to individuals in order to attend a workshop, conference or training, all of which are allowable expenses under this grant program.

c. Travel expenses. Reimbursement is for in-state travel only; mileage, lodging, and food expenses will be reimbursed at the current state rate as found on the department of administrative services website.

d. Noneligible expenses. Grant funds cannot be used for technology or infrastructure development or construction whose singular function is not primarily and consistently dedicated to the program or exhibit for which grant funds are requested. Additionally, grant funds cannot be used for food and beverage costs or reimbursements.

ITEM 4. Rescind rule 571—33.21(455A) and adopt the following new rule in lieu thereof:

571—33.21(455A) Competitive grant project planning and review committee.

33.21(1) Review committee.

a. The director shall appoint a five-person review and selection committee to evaluate project applications. This committee shall include one representative of the department appointed by the director; one representative of the department of education science consultant or designee, one representative of the Iowa conservation education council, one representative of the Iowa association of naturalists, and one representative of the Iowa association of county conservation boards. Additionally, there shall be at least one alternate identified and designated by the director from each

represented organization. Terms of appointment to the committee shall be on a three-year staggered term basis.

b. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

33.21(2) *Competitive grant project selection criteria.*

a. Under the competitive grant program, a project planning and review committee shall establish criteria and scoring systems to be utilized in project evaluation. The criteria and scoring systems shall be submitted to the natural resource commission for approval.

b. The department shall publish on its website the date and time for submitting a funding proposal and the criteria and scoring system, providing at least 90 days' notice. Applications must be submitted to the department as described on the website.

c. Upon recommendation of the planning and review committee, the natural resource commission shall award the grants.

33.21(3) *Dissemination plan.*

a. After completion of the project awarded through the large grants, and prior to final request for reimbursement, the awardee shall complete a dissemination plan as provided on the department's website. Projects funded with conservation education program funds are intended to be replicable by other educators or conservation programs in Iowa.

b. Annually, the review and selection committee will review dissemination plans; select successful projects per criteria developed and approved by the natural resource commission; and offer additional award opportunities, not to exceed \$10,000 per awardee, of up to \$50,000 of conservation education program funds for other educators or conservation education programs to implement.

33.21(4) *Nonapplication of copyright.* Program materials developed from REAP funds for conservation education materials shall bear the REAP logo. However, materials developed under this grant shall not be copyrighted by the grantee unless the department gives permission. A digital copy of all program materials developed shall be supplied to the department as part of the dissemination plan.

ITEM 5. Rescind and reserve rule **571—33.22(455A)**.

ITEM 6. Rescind and reserve rule **571—33.23(455A)**.

ITEM 7. Rescind and reserve rule **571—33.24(455A)**.

ITEM 8. Rescind and reserve rule **571—33.25(455A)**.

ITEM 9. Rescind and reserve rule **571—33.26(455A)**.

ITEM 10. Rescind and reserve rule **571—33.27(455A)**.

ITEM 11. Rescind and reserve rule **571—33.28(455A)**.

ITEM 12. Rescind and reserve rule **571—33.29(455A)**.

ITEM 13. Rescind and reserve rule **571—33.30(455A)**.

Regulatory Analysis

Notice of Intended Action to be published: 721—subrule 4.2(3)
“Agricultural Reporting”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.3

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 9I and 10B as amended by 2024 Iowa Acts, Senate File 2204

Public Hearing

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

December 31, 2024
10 to 11 a.m.

Via videoconference call:
meet.google.com/bgd-sijt-agq

Public Comment

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

Eric Gookin
Office of the Secretary of the State
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: eric.gookin@sos.iowa.gov

Purpose and Summary

This proposed amendment adds to the Secretary of State’s listing of forms and updates a reference to the foreign agricultural land ownership report and its frequency to conform to Iowa Code chapters 9I and 10B as amended by 2024 Iowa Acts, Senate File 2204.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**
 - **Classes of persons that will bear the costs of the proposed rulemaking:**
There are no costs of the proposed rulemaking.
 - **Classes of persons that will benefit from the proposed rulemaking:**
The amendment does not create or alter benefits.
2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
 - **Quantitative description of impact:**
There is no economic impact of the proposed rulemaking.
 - **Qualitative description of impact:**
There is no qualitative impact of the proposed rulemaking.
3. **Costs to the State:**
 - **Implementation and enforcement costs borne by the agency or any other agency:**
There are no costs to the Secretary of State or any other agency.
 - **Anticipated effect on state revenues:**

There is no effect on state revenues.

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

There is no cost difference between adoption of the proposed amendment and inaction.

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

No less costly methods or less intrusive methods exist.

6. Alternative methods considered by the agency:

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

No alternative methods were considered.

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

No alternative methods were considered.

Small Business Impact

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

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

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

The proposed rulemaking does not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend subrule 4.2(3) as follows:

4.2(3) Agricultural reporting.

- a. Biennial Agricultural Report—used by U.S. holders of Iowa agricultural land to comply with Iowa Code chapter 10B biennial reporting requirements.
- b. Pork and Beef Processor Report—used by Iowa pork and beef processors to comply with Iowa Code chapter 202B annual reporting requirements.
- c. Registration of Nonresident Alien Land Ownership—used by non-U.S. holders of Iowa agricultural land to comply with Iowa Code chapter 9I registration requirements.
- d. Nonresident Alien Land Ownership Report—used by non-U.S. holders of Iowa agricultural land to comply with Iowa Code chapter 9I ~~annual~~ 10B biennial reporting requirements.
- e. Contract Feeders Report—used by Iowa contract feeders to comply with Iowa Code chapter 202B annual reporting requirements.
- f. Biennial Agricultural Lessee Research Report—used by lessees of agricultural land for research or experimental purposes to comply with Iowa Code chapter 10B biennial reporting requirements.

Information regarding forms for agricultural reporting may be requested from the Business Services Division, Office of the Secretary of State, Lucas State Office Building, Des Moines, Iowa 50319. The telephone number is ~~(515)281-5204~~ 515.281.5204.

Regulatory Analysis

Notice of Intended Action to be published: 721—29.4(47) and 721—43.9(9B)
“Elections Technology Security; Notarial Acts”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 47.1(8) and 9B.14A(8)
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, House File 688

Public Hearing

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

December 31, 2024
11 a.m. to 12 noon

Via videoconference call:
meet.google.com/bgd-sijt-agq

Public Comment

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

Eric Gookin
Office of the Secretary of the State
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: eric.gookin@sos.iowa.gov

Purpose and Summary

This proposed rulemaking amends rules 721—29.4(47) and 721—43.9(9B) to add dates certain for references to National Institute of Standards and Technology (NIST) Special Publications as required by 2024 Iowa Acts, House File 688, and to add the required introductory language to those rules.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**
 - **Classes of persons that will bear the costs of the proposed rulemaking:**
There are no costs of the proposed rulemaking.
 - **Classes of persons that will benefit from the proposed rulemaking:**
The rulemaking does not create or alter benefits.
2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
 - **Quantitative description of impact:**
There is no economic impact of the proposed rulemaking.
 - **Qualitative description of impact:**
There is no qualitative impact of the proposed rulemaking.
3. **Costs to the State:**
 - **Implementation and enforcement costs borne by the agency or any other agency:**
There are no costs to the Secretary of State or any other agency.
 - **Anticipated effect on state revenues:**
There is no effect on state revenues.

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

There is no cost difference between adoption of the proposed rulemaking and inaction.

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

No less costly methods or less intrusive methods exist.

6. Alternative methods considered by the agency:

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

No alternative methods were considered.

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

No alternative methods were considered.

Small Business Impact

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

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

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

The proposed rulemaking does not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend rule 721—29.4(47), introductory paragraph, as follows:

721—29.4(47) Election security by the commissioners. NIST Special Publication 800-63B, adopted by reference in subrule 29.4(11), provides guidelines for digital authentication of subjects to systems over a network.

ITEM 2. Amend subrule 29.4(11) as follows:

29.4(11) Any county information technology infrastructure that is used to access or conduct any part of elections in the state is subject to the following requirements:

- a.* Passwords to access the county network must be compliant with the standards enumerated by either the ~~National Institute of Standards and Technology, June 2017 edition, including the March 2, 2020, updates, of NIST Special Publication 800-63B;~~ the OCIO; or guidance issued by the state commissioner.
- b.* Session-lock timeout standards must be compliant with the standards enumerated by either the ~~National Institute of Standards and Technology June 2017 edition, including the March 2, 2020, updates, of NIST Special Publication 800-63B~~ or guidance issued by the state commissioner.
- c.* and *d.* No change.

ITEM 3. Amend rule 721—43.9(9B), introductory paragraph, as follows:

721—43.9(9B) Standards for communication technology and identity proofing for notarial acts performed for remotely located individuals. NIST Special Publication 800-63-3, adopted by reference in subrule 43.9(2), establishes risk-based processes for the assessment of risks for identity management activities and selection of appropriate assurance levels and controls.

ITEM 4. Amend subrule 43.9(2) as follows:

43.9(2) Identity proofing and credential analysis must be performed by a third-party credential service provider whose methods and standards are substantially similar to those defined in the ~~most recent edition of the National Institute of Standards and Technology's Digital Identity Guidelines, June 2017 edition, including the March 2, 2020, updates, of NIST Special Publication 800-63-3~~ and that has provided evidence to the notary public of the ability to satisfy the following requirements:

a. and *b.* No change.

c. Credential analysis shall, at a minimum, do all of the following:

(1) Use automated software processes to aid the notary public in verifying the identity of a principal or any credible witness.

(2) Ensure that the credential passes an authenticity test, substantially similar to those defined in the ~~most recent edition of the National Institute of Standards and Technology's Digital Identity Guidelines June 2017 edition, including the March 2, 2020, updates, of NIST Special Publication 800-63-3~~, that:

1. to 4. No change.

(3) No change.

d. No change.

Regulatory Analysis

Notice of Intended Action to be published: 721—subrule 40.5(13)
“Mark Applications, Assignments, and Cancellation Fees”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 548.117
State or federal law(s) implemented by the rulemaking: Iowa Code section 548.117

Public Hearing

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

December 31, 2024
12 noon to 1 p.m.

Via videoconference call:
meet.google.com/bgd-sijt-agq

Public Comment

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

Eric Gookin
Office of the Secretary of the State
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: eric.gookin@sos.iowa.gov

Purpose and Summary

The proposed subrule prescribes the existing trademark registration-related fees as required by Iowa Code section 548.117.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**
 - **Classes of persons that will bear the costs of the proposed rulemaking:**
There are no costs of the proposed rulemaking.
 - **Classes of persons that will benefit from the proposed rulemaking:**
The subrule does not create or alter benefits.
2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
 - **Quantitative description of impact:**
There is no economic impact of the proposed rulemaking.
 - **Qualitative description of impact:**
There is no qualitative impact of the proposed rulemaking.
3. **Costs to the State:**
 - **Implementation and enforcement costs borne by the agency or any other agency:**
There are no costs to the Secretary of State or any other agency.
 - **Anticipated effect on state revenues:**
There is no effect on state revenues.

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

There is no cost difference between adoption of the proposed subrule and inaction.

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

No less costly methods or less intrusive methods exist.

6. Alternative methods considered by the agency:

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

No alternative methods were considered.

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

No alternative methods were considered.

Small Business Impact

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

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

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

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

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

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

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

The proposed rulemaking does not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** subrule 40.5(13):

40.5(13) Fees. Fees for mark applications, assignments, and cancellations are established as follows:

Application for registration of mark:	\$10
Application for renewal of registered mark:	\$10
Assignment of registration of mark:	\$5
Cancellation of registration of mark:	\$5

Regulatory Analysis

Notice of Intended Action to be published: 721—45.4(572) and 721—45.5(572)
“MNLR Preliminary Notices; Notices of Commencement of Work”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 572.34(12)

State or federal law(s) implemented by the rulemaking: Iowa Code section 572.34(12)

Public Hearing

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

December 31, 2024
1 to 2 p.m.

Via videoconference call:
meet.google.com/bgd-sijt-agq

Public Comment

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

Eric Gookin
Office of the Secretary of the State
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: eric.gookin@sos.iowa.gov

Purpose and Summary

This proposed rulemaking adds subrules under rules 721—45.4(572) and 721—45.5(572) to adopt specifics for renewing, making inactive, and removing inactive Mechanics' Notice and Lien Registry (MNLR) preliminary notices and notices of commencement of work as required by Iowa Code section 572.34(12).

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**
 - **Classes of persons that will bear the costs of the proposed rulemaking:**
There are no costs of the proposed rulemaking.
 - **Classes of persons that will benefit from the proposed rulemaking:**
The rulemaking does not create or alter benefits.
2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
 - **Quantitative description of impact:**
There is no economic impact of the proposed rulemaking.
 - **Qualitative description of impact:**
There is no qualitative impact of the proposed rulemaking.
3. **Costs to the State:**
 - **Implementation and enforcement costs borne by the agency or any other agency:**
There are negligible implementation costs to the Secretary of State in the form of software developer time. There is no cost to any other agency.

- **Anticipated effect on state revenues:**

There is no effect on state revenues.

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

There is a negligible cost difference between adoption of the proposed amendments and inaction.

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

No less costly methods or less intrusive methods exist.

6. Alternative methods considered by the agency:

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

No alternative methods were considered.

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

No alternative methods were considered.

Small Business Impact

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

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

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

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

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

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

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

The proposed rulemaking does not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend rule 721—45.4(572) as follows:

721—45.4(572) Posting of notice of commencement of work; renewal of notice; inactive notice.

45.4(1) to 45.4(3) No change.

45.4(4) *Renewal of notice of commencement of work.* A notice of commencement of work may be renewed on the MNLR within 30 days prior to being declared inactive.

45.4(5) *Notice of commencement of work declared inactive.* A notice of commencement of work, if there are no related active postings, shall be declared inactive two years from the date of posting, unless renewed.

45.4(6) *Removal of inactive notice.* A notice of commencement of work shall be removed from the MNLR one year after being declared inactive.

ITEM 2. Amend rule 721—45.5(572) as follows:

721—45.5(572) Posting of preliminary notice; renewal of notice; inactive notice.

45.5(1) to 45.5(4) No change.

45.5(5) *Renewal of preliminary notice.* A preliminary notice may be renewed on the MNLR within 30 days prior to being declared inactive.

45.5(6) *Preliminary notice declared inactive.* A preliminary notice that remains posted on the MNLR two years after the date of posting shall be declared inactive by the administrator, unless renewed.

45.5(7) *Removal of inactive notice.* A preliminary notice shall be removed from the MNLR one year after being declared inactive.

ARC 8493C

DENTAL BOARD[650]**Notice of Intended Action****Proposing rulemaking related to agency realignment
and providing an opportunity for public comment**

The Dental Board hereby proposes to rescind Chapter 1, “Administration,” Chapter 6, “Public Records and Fair Information Practices,” Chapter 7, “Rules,” Chapter 8, “Sale of Goods and Services,” Chapter 9, “Declaratory Orders,” Chapter 10, “General Requirements,” Chapter 11, “Licensure and Registration,” Chapter 12, “Dental and Dental Hygiene Examinations,” Chapter 13, “Special Licenses,” Chapter 14, “Renewal and Reinstatement,” Chapter 15, “Fees,” Chapter 16, “Prescribing, Administering, and Dispensing Drugs,” Chapter 20, “Dental Assistants,” Chapter 21, “Dental Laboratory Technician,” Chapter 22, “Dental Assistant Radiography Qualification,” Chapter 23, “Expanded Functions,” Chapter 25, “Continuing Education,” Chapter 26, “Advertising,” Chapter 27, “Standards of Practice and Principles of Professional Ethics,” Chapter 29, “Sedation and Nitrous Oxide,” Chapter 30, “Discipline,” Chapter 31, “Complaints and Investigations,” Chapter 32, “Mediation of Disputes,” Chapter 33, “Child Support Noncompliance,” Chapter 35, “Iowa Practitioner Review Committee,” Chapter 36, “Nonpayment of State Debt,” Chapter 50, “Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions,” Chapter 51, “Contested Cases,” and Chapter 52, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3, 17A.7, 17A.9, 17A.22, 22.11(1), 68B.4, 147.76, 153.33(1), 153.33, 272C.3, 272C.4, and 272C.12A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 10A, 17A, 68B, 147, 153, 252J, 272C, and 272D, and Executive Order 10.

Purpose and Summary

This proposed rulemaking eliminates all chapters of the agency [650] in response to action taken by the Dental Board to repromulgate all administrative rules as required by Executive Order 10 and in accordance with the state government realignment. This rulemaking proposes to substantively rescind 650—Chapter 32, “Mediation of Disputes,” because it is outdated in light of the repeal of Iowa Code chapter 679 and is not necessary to the effective implementation of the Board’s duties pursuant to Iowa Code chapter 153.

Additionally, the Dental Board proposes to rescind the following chapters and repromulgate such rules, as identified, under the Department of Inspections, Appeals, and Licensing’s (DIAL’s) agency number, 481. All substantive analysis related to the repromulgation of said chapters is contained within the Notice of Intended Action for the proposed repromulgated chapter, as identified in the table below:

Current [650] Chapter	Proposed [481] Chapter
650—Chapter 1, “Administration”	481—Chapter 570
650—Chapter 15, “Fees”	481—Chapter 571
650—Chapters 11, “Licensure and Registration,” 12, “Dental and Dental Hygiene Examinations,” 13, “Special Licenses,” and 14, “Renewal and Reinstatement”	481—Chapter 572

Current [650] Chapter	Proposed [481] Chapter
650—Chapter 25, “Continuing Education”	481—Chapter 573
650—Chapters 10, “General Requirements” (partial), 26, “Advertising,” and 27, “Standards of Practice and Principles of Professional Ethics”	481—Chapter 574
650—Chapters 20, “Dental Assistants,” 21, “Dental Laboratory Technician,” and 22, “Dental Assistant Radiography Qualification”	481—Chapter 575
650—Chapter 10, “General Requirements” (partial)	481—Chapter 576
650—Chapter 23 “Expanded Functions”	481—Chapter 577
650—Chapter 16, “Prescribing, Administering, and Dispensing Drugs”	481—Chapter 578
650—Chapter 29, “Sedation and Nitrous Oxide”	481—Chapter 579
650—Chapter 31, “Complaints and Investigations”	481—Chapter 580
650—Chapter 30, “Discipline”	481—Chapter 581

Finally, the Dental Board also maintained its own set of Uniform Rules on Agency Procedure, as well as other chapters that are duplicative of chapters maintained by DIAL and other licensing boards that also realigned under the administrative authority of DIAL. Accordingly, the Dental Board proposes to rescind all such chapters and will promulgate a single rule under agency number 481 in another rulemaking to adopt pertinent uniform and model chapters by reference. All substantive analysis related to the adoption of pertinent uniform and model chapters by reference is contained within the Regulatory Analysis for proposed 481—Chapter 570.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

No public comments were received with regard to these chapters after publication of the Regulatory Analysis.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O’Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352

Fax: 515.281.7969

Email: jessica.o'brien@idph.iowa.gov

Public Hearing

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

January 2, 2025
12 noon to 12:30 p.m.

6200 Park Avenue, Suite 100
Des Moines, Iowa
meet.google.com/cvm-tzam-vps
Or dial: 575.587.5605
PIN: 850 703 192#

January 3, 2025
12 noon to 12:30 p.m.

6200 Park Avenue, Suite 100
Des Moines, Iowa
meet.google.com/cvm-tzam-vps
Or dial: 575.587.5605
PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

- ITEM 1. Rescind and reserve **650—Chapter 1.**
- ITEM 2. Rescind and reserve **650—Chapter 6.**
- ITEM 3. Rescind and reserve **650—Chapter 7.**
- ITEM 4. Rescind and reserve **650—Chapter 8.**
- ITEM 5. Rescind and reserve **650—Chapter 9.**
- ITEM 6. Rescind and reserve **650—Chapter 10.**
- ITEM 7. Rescind and reserve **650—Chapter 11.**
- ITEM 8. Rescind and reserve **650—Chapter 12.**
- ITEM 9. Rescind and reserve **650—Chapter 13.**
- ITEM 10. Rescind and reserve **650—Chapter 14.**
- ITEM 11. Rescind and reserve **650—Chapter 15.**
- ITEM 12. Rescind and reserve **650—Chapter 16.**
- ITEM 13. Rescind and reserve **650—Chapter 20.**
- ITEM 14. Rescind and reserve **650—Chapter 21.**
- ITEM 15. Rescind and reserve **650—Chapter 22.**
- ITEM 16. Rescind and reserve **650—Chapter 23.**

- ITEM 17. Rescind and reserve **650—Chapter 25.**
- ITEM 18. Rescind and reserve **650—Chapter 26.**
- ITEM 19. Rescind and reserve **650—Chapter 27.**
- ITEM 20. Rescind and reserve **650—Chapter 29.**
- ITEM 21. Rescind and reserve **650—Chapter 30.**
- ITEM 22. Rescind and reserve **650—Chapter 31.**
- ITEM 23. Rescind and reserve **650—Chapter 32.**
- ITEM 24. Rescind and reserve **650—Chapter 33.**
- ITEM 25. Rescind and reserve **650—Chapter 35.**
- ITEM 26. Rescind and reserve **650—Chapter 36.**
- ITEM 27. Rescind and reserve **650—Chapter 50.**
- ITEM 28. Rescind and reserve **650—Chapter 51.**
- ITEM 29. Rescind and reserve **650—Chapter 52.**

ARC 8506C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rulemaking related to administration—library programs, compliance with Iowa Code section 279.80 and providing an opportunity for public comment

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

Legal Authority for Rulemaking

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

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 256.

Purpose and Summary

This proposed rulemaking implements the provisions of 2023 Iowa Acts, Senate File 496, that have not already been implemented. This proposed rulemaking addresses parental rights in education and age-appropriate library programs.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

Fiscal Impact

No fiscal impact to the State has been found. No appreciable fiscal impact on school districts has been found (Legislative Services Agency analysis—August 2024 Administrative Rules Review Committee meeting).

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department of Education no later than 4:30 p.m. on December 31, 2024. Comments should be directed to:

Thomas Mayes
Iowa Department of Education
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661

Public Hearing

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

December 31, 2024
8 to 9 a.m.

Room B50
Grimes State Office Building
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend paragraph **12.3(10)“b”** as follows:

b. Each school district shall establish a kindergarten through grade 12 library program that is consistent with Iowa Code section 280.6 and with the educational standards established in this chapter, that contains only age-appropriate materials, and that supports the student achievement goals of the total school curriculum. In complying with the requirements in Iowa Code section 279.77(3), the district, if it does not make available a comprehensive list of all books available to all students in libraries offered by the district on its website in real time, must post an updated list at least two times per calendar year.

ITEM 2. Adopt the following **new** paragraph **12.3(10)“c”**:

c. Support, monitoring, and enforcement.

(1) If, after investigation, the department determines that a school district or an employee of a school district has violated the provisions of this subrule related to library programs containing only age-appropriate materials, beginning January 1, 2024, the school district or employee of the school district, as applicable, shall be subject to the following:

1. For the first violation of this subrule, the department shall issue a written warning to the board of directors of the school district or the employee, as applicable.

2. For a second or subsequent violation of this subrule, if the department finds that a school district knowingly violated this subrule, the superintendent of the school district shall be subject to a hearing conducted by the board of educational examiners, which may result in disciplinary action.

3. For a second or subsequent violation of this subrule, if the department finds that an employee of the school district who holds a license, certificate, authorization, or statement of recognition issued by the board of educational examiners knowingly violated this subrule, the employee shall be subject to a hearing conducted by the board of educational examiners, which may result in disciplinary action.

(2) This paragraph relates solely to library programs operated by the district, which means library programs over which the district exercises administrative control.

(3) Concerning enforcement provisions relating to library books containing only age-appropriate materials, the department may exercise enforcement discretion if any violation is voluntarily and permanently corrected prior to the department making a determination of a violation.

(4) For library collections that serve multiple grade ranges, the district will exercise reasonable physical, administrative, and technological controls to ensure that students have access to age-appropriate materials based on the students' age and grade.

ITEM 3. Adopt the following **new** subrule 12.3(15):

12.3(15) *Compliance with Iowa Code section 279.80.*

a. A school district shall not provide any program, curriculum, test, survey, questionnaire, promotion, or instruction relating to gender identity or sexual orientation to students in kindergarten through grade six.

b. "Gender identity" and "sexual orientation" have the same meanings given in Iowa Code section 216.2.

c. In monitoring and enforcing this subrule, the department will not conclude that a neutral statement regarding sexual orientation or gender identity violates Iowa Code section 279.80 or this subrule.

ARC 8505C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rulemaking related to dual enrollment and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 31, "Private Instruction and Dual Enrollment," Iowa Administrative Code.

Legal Authority for Rulemaking

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

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 299A.

Purpose and Summary

This proposed rulemaking clarifies limits on dual enrollment into public school coursework. The Department of Education received feedback that the recently adopted revision of Chapter 31 was unclear and confusing on this point.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 5, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department of Education no later than 4:30 p.m. on December 31, 2024. Comments should be directed to:

Thomas Mayes
Iowa Department of Education
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661

Public Hearing

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

December 31, 2024
8 to 9 a.m.

Room B50
Grimes State Office Building
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind subrule 31.5(4) and adopt the following new subrule in lieu thereof:
31.5(4) A parent may not use dual enrollment to enroll a child in all courses but one.

ARC 8540C

HUMAN RIGHTS DEPARTMENT[421]

Notice of Intended Action

Proposing rulemaking related to Family Development and Self-Sufficiency (FaDSS) program and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 24, "Family Development and Self-Sufficiency (FaDSS) Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 216A.107.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514, and 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

This chapter defines and structures the FaDSS program administered by the Department. The purpose of the program is to fund, evaluate, and provide recommendations on programs that provide services to assist families at risk of instability or dependency on the Family Investment Program to move toward self-sufficiency.

These rules establish provisions for the grant proposal process and the awarding of grants, grant contract provisions, criteria and conditions for at-risk families, provisions for referral of families, grantee responsibilities, and the requirement for program evaluation.

Pursuant to 2023 Iowa Acts, Senate File 514, this chapter is proposed to be rescinded and moved from the legacy Human Rights Department[421] to a new chapter within the Human Services Department[441].

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 16, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 297 224 919 887 Passcode: TpBUop
January 21, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 255 649 705 881 Passcode: BsEBSV

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **421—Chapter 24**.

ARC 8508C

HUMAN RIGHTS DEPARTMENT[421]**Notice of Intended Action**

**Proposing rulemaking related to functions of division
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 40, “Functions of Division,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 216A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

The purpose of this proposed rulemaking is to rescind a chapter that is no longer applicable due to the passage of 2024 Iowa Acts, Senate File 2385, which consolidated Iowa’s boards and commissions.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 12, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 Passcode: hPYxD2

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **421—Chapter 40**.

ARC 8522C

HUMAN RIGHTS DEPARTMENT[421]

Notice of Intended Action

**Proposing rulemaking related to hall of fame
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 41, "Hall of Fame," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 216A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

This proposed rulemaking rescinds an administrative chapter that has become obsolete due to the enactment of 2024 Iowa Acts, Senate File 2385.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 12, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliance.rules@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 Passcode: hPYxD2

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **421—Chapter 41**.

ARC 8535C

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action**

**Proposing rulemaking related to family development and self-sufficiency program
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to adopt new Chapter 49, “Family Development and Self-Sufficiency (FaDSS) Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 216A.107.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

These proposed rules define and structure the Family Development and Self-Sufficiency program administered by the Department. The purpose of the program is to fund, evaluate, and provide recommendations on programs that provide services to assist families at risk of instability or dependency on the Family Investment Program to move toward self-sufficiency.

These rules establish provisions for the grant proposal process and the awarding of grants, grant contract provisions, criteria and conditions for at-risk families, provisions for referral of families, grantee responsibilities, and the requirement for program evaluation.

Finally, the rules are being moved from the legacy Human Rights agency number [421] to a new chapter within the Health and Human Services agency number [441]. These rules were previously located in 421—Chapter 24.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 12, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 15, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 240 123 537 880 Passcode: 4MT8Ac
January 17, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 273 055 800 019 Passcode: FggQZn

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 441—Chapter 49:

CHAPTER 49

FAMILY DEVELOPMENT AND SELF-SUFFICIENCY (FaDSS) PROGRAM

441—49.1(216A) Definitions. As used in these rules, unless the context otherwise requires:

“*Applicant*” means a public or private organization that applies for a family development and self-sufficiency grant through the request for proposal process.

“*Council*” means the council on health and human services.

“*Grant*” means an award approved by the council to fund a family development and self-sufficiency project.

“*Grantee*” means an applicant whose proposal is selected by the council and who enters into a grant agreement with the department.

“*Program*” or “*FaDSS program*” means the family development and self-sufficiency (FaDSS) program.

“*Proposal*” or “*grant proposal*” means an application for grant funds to fund specific projects.

441—49.2(216A) Identification of conditions and criteria for families at risk. The council has identified the following conditions and criteria that may place families at risk of instability or of long-term dependency on the family investment program:

49.2(1) *Educational level of head of household.*

- a. Head of household has less than a high school education.
- b. Head of household lacks basic literacy skills.

49.2(2) *Work experience of head of household.*

- a. Head of household has never been employed.
- b. Head of household has multiple episodes of employment lasting less than one year.
- c. Head of household is currently unemployed.

49.2(3) *Household composition.*

- a. Members are homeless or nearly homeless.

- b. Members outside the nuclear family are in residence.
- c. One or more children in the household were born while the parent received public assistance.
- d. One or more children in the household are identified as having special needs.
- e. Household includes a family member with substantiated substance use issues.
- f. Household includes a past or current perpetrator of child abuse or domestic violence.
- g. Household includes a member with a record of incarceration.

49.2(4) *Background of head of household.*

- a. Head of household was a teenager at birth of first child.
- b. Head of household has a disability or chronic illness (mental or physical).
- c. Head of household is a past or current victim of child abuse or domestic violence.
- d. Head of household grew up in a household with substance abuse.

49.2(5) *Public assistance history.*

- a. Head of household grew up in a household that received public assistance.
- b. Household has experienced multiple episodes of receipt of public assistance.
- c. Household has been on public assistance for three or more years.

49.2(6) *Other conditions.* The council has also identified the following conditions that may contribute to instability or long-term dependency:

- a. Lack of employment opportunity.
- b. Lack of available services.
- c. Lack of transportation.

441—49.3(216A) Referral of families. Families who meet one or more of the conditions and criteria identified in rule 441—49.2(216A) may be referred to the program by the department, the department of workforce development, family self-referral, or other sources. Grantees will determine eligibility for the program in accordance with the eligibility criteria determined by the department.

441—49.4(216A) Funding of grants.

49.4(1) *Availability of funds.* The council will develop requests for proposals for the awarding of grants, subject to availability of funds. Grants will not exceed 60 months; however, the department will approve grantee budgets on an annual basis, based upon and subject to available funds.

49.4(2) *Grant application process.* The department will distribute applications for grants through a request for proposal. Applications shall be submitted to the department in accordance with the instructions indicated in the request for proposal.

49.4(3) *Grant proposals.* Grant proposals for the program must include all elements outlined in the application as determined by the council.

49.4(4) *Selection of grant proposals.* All proposals timely received will be reviewed by the department, which will make recommendations to the council. The council will review the projects recommended by the department and make the final decision with respect to grant awards.

49.4(5) *Notification of applicants.* Applicants will be notified of grant award decisions within 60 days after the due date for receipt of proposals.

441—49.5(216A) Grants not renewed and grants terminated or reduced. If the council determines that a grantee's project funding will not be renewed or if the council terminates or reduces a grantee's funding, the balance of funds not renewed or terminated or reduced will be awarded by the council to other grantees for which funding is approved, based on criteria approved by the council. In the event no previously approved grantees have been selected, the council will fund new grantees selected by the council as a result of a competitive grant application process.

441—49.6(216A) Appeal.

49.6(1) Applicants dissatisfied with the council's actions regarding grant proposals for funds and grantees dissatisfied with termination of a contract may appeal the council's decision in accordance with 441—Chapter 7.

49.6(2) In the case of a grant award, no disbursements will be made to a grantee for a period of ten calendar days following issuance of the notice of decision to award. If an appeal is filed within the ten days, all disbursements will be held pending a final decision on the appeal. All applicants will be notified if an appeal is filed.

441—49.7(216A) Contract with grantee. Funds for grants approved by the council will be awarded pursuant to a contract entered into by the department and the grantee.

49.7(1) Negotiation. The department will conduct contract negotiations with the selected applicant, including negotiations regarding possible modifications to a grant proposal.

49.7(2) Withdrawal of contract offer. If the applicant and the department are unable to successfully negotiate a contract, the council may withdraw the award offer and award the grant to the applicant with the next highest-scoring proposal.

49.7(3) Contract revisions. The department and the grantee may negotiate revisions to the contract to allow for nonmaterial expansion or modification of services so long as such revisions do not increase the total amount of the grant. The department has the right to approve an amendment to the contract budget moving grant funds between budget line items if the funds represent more than 10 percent of the budget line item. All contract amendments will be granted at the discretion of the department in accordance with the terms set forth in the contract.

441—49.8(216A) Grantee responsibilities. The grantee will be responsible for providing services in accordance with the policies and procedures set forth in the FaDSS program manual as amended to August 1, 2024; the grant contract; and any other guidance from the department.

441—49.9(216A) Evaluation. The grantee will be evaluated by the department in accordance with the continuous quality improvement plan developed by the department.

These rules are intended to implement Iowa Code section 216A.107 as amended by 2024 Iowa Acts, Senate File 2385.

ARC 8531C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to application for assistance and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 50, “Application for Assistance,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 249.3, 249.4 and 249A.4 and 20 CFR Part 416, Subpart T.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter outlines the application procedures and related criteria for state supplementary assistance programs administered by the Department.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 14, 2025 1 to 2 p.m.	Microsoft Teams Meeting ID: 231 057 860 353 Passcode: fLgjUS
January 17, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 230 344 825 539 Passcode: siQGLw

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 50 and adopt the following **new** chapter in lieu thereof:

TITLE V
STATE SUPPLEMENTARY ASSISTANCE
CHAPTER 50
APPLICATION FOR ASSISTANCE

441—50.1(249) Definitions.

“Aged” means a person 65 years of age or older.

“Applicant” means a person who is requesting state supplementary assistance on the person’s own behalf or a person for whom state supplementary assistance is requested.

“Blind” means the same as defined in 20 CFR Section 416.981 as amended to August 1, 2024.

“Client” means a person who has been determined eligible and is a current or former recipient of state supplementary assistance.

“Disabled” means the same as defined in 20 CFR Section 416.905 or 20 CFR Section 416.906, both as amended to August 1, 2024. Exception: For the supplement for Medicare and Medicaid eligibles, being engaged in substantial gainful activity will not preclude a determination of disability. For purposes of state-administered payments, the department will determine disability according to 441—Chapter 75.

“Payment for a dependent relative” means a payment to a recipient on behalf of a dependent relative as defined in Iowa Code section 249.3(3).

“Payment for a protective living arrangement” means a payment to a recipient living in a family life home.

“Payment for residential care” means a payment to a recipient living in a residential care facility who is determined to be in need of care and payment is made on a per diem basis.

441—50.2(249) Application procedures.

50.2(1) In order to be eligible for state supplementary assistance, an aged, blind, or disabled person with need for a living arrangement as defined in Iowa Code section 249.3 shall be receiving supplemental security income benefits or shall meet all eligibility requirements for the benefits other than income, but have less income than the standards for the living arrangements as set forth in 441—Chapter 52 and 441—Chapter 177.

a. Payments for mandatory supplementation, blind allowance, dependent relative allowance, and the family life home program shall be federally administered. Income excluded in determining eligibility for or the amount of a supplemental security income benefit will be excluded in determining eligibility for or the amount of the state payment.

b. Payments for in-home, health-related care and residential care shall be state administered. Income excluded in determining eligibility for or the amount of a supplemental security income benefit, except the \$20 exclusion of any income, will be excluded in determining eligibility for or the amount of the state payment.

c. Payments for supplements for Medicare and Medicaid eligibles shall be state-administered. Income excluded in determining eligibility for the person’s Medicaid coverage group will be excluded in determining eligibility for the state payment.

50.2(2) Any person applying for payment for a protective living arrangement or payment for a dependent relative shall make application for supplemental security income at the Social Security Administration district office. The county office of the department will certify to the Social Security Administration as to the nature of the living arrangement or the status of the dependent.

50.2(3) Any person applying for payment for residential care, a dependent person allowance, payment for a protective living arrangement, or in-home health-related care shall make application with the department. The application shall be made on a form prescribed by the department. The application shall be signed by the applicant or the authorized representative. Someone acting responsibly for an incapacitated, incompetent, or deceased person may sign the application on the person’s behalf.

a. Each person wishing to do so shall have the opportunity to apply for assistance without delay.

b. An applicant may be assisted by an authorized representative as defined in rule 441—76.1(249A). If the applicant is unable to act on the applicant's own behalf, a responsible person may act on the applicant's behalf pursuant to rule 441—76.9(249A).

c. The department will notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply the information or refusal to authorize the department to secure the information from other sources shall serve as a basis for denial of assistance.

50.2(4) An application for Medicaid from a person who meets the requirements of rule 441—51.6(249) will be considered as an application for the supplement for Medicare and Medicaid eligibles.

441—50.3(249) Approval of application and effective date of eligibility.

50.3(1) Payment for a federally administered payment category when the applicant is not a supplemental security income (SSI) recipient will be effective the month following the month that an application is filed or, if later, the month following the month that all eligibility criteria are met, pursuant to 42 U.S.C. Section 1382(c)(7) as amended to August 1, 2024. Payment for a federally administered payment category when the applicant is an SSI recipient will be effective as of the first day of the month in which an application is filed or the first day of the month in which all eligibility criteria are met, whichever is later, notwithstanding 42 U.S.C. Section 1382(c)(7) as amended to August 1, 2024.

50.3(2) Payment for residential care will be effective as of the date that eligibility first exists, notwithstanding 42 U.S.C. Section 1382(c)(7) as amended to August 1, 2024, but in no case will the effective date be earlier than 30 days prior to the date of application.

50.3(3) The application for residential care will be approved or denied within five working days after the Social Security Administration approves supplemental security income benefits. When supplemental security income benefits will not be received, the application will be approved or denied within five working days from the date of establishment of all eligibility factors.

50.3(4) Payment for the supplement for Medicare and Medicaid eligibles will be effective retroactive to October 1, 2003, or to the first month when all eligibility requirements are met, whichever is later.

441—50.4(249) Reviews.

50.4(1) Any eligibility factor will be reviewed whenever a change in circumstances occurs.

50.4(2) All eligibility factors will be reviewed at least annually.

50.4(3) For purposes of an annual review to be performed by the department, the client shall complete and return a form prescribed by the department.

441—50.5(249) Application under conditional benefits. When the applicant or client is seeking state supplementary assistance (SSA) under the conditional benefit policy of the SSI program in accordance with 20 CFR Section 416.1242 as amended to March 15, 2022, the applicant or client are required to do the following:

50.5(1) Complete and return Form 470-2909.

50.5(2) Complete and return Form 470-2908 as follows:

a. For personal property, every 30 days during the conditional benefits period.

b. For real property, 35 days after conditional benefits are granted and every 60 days thereafter for nine months. If eligibility continues and the real property is not sold, the applicant or client shall complete the form every 90 days.

50.5(3) Sign an agreement to repay the state supplementary assistance granted during the conditional period using a form prescribed by the department. The amount of repayment is limited to the lesser of:

a. The amount by which the revised value of resources (resources counted at the beginning of the conditional period plus the net value of resources sold) minus both the resource limit and the amount that SSI recovers for conditional benefits.

b. The amount of state supplementary assistance actually paid in the conditional period, minus the amount that SSI recovers for conditional benefits.

These rules are intended to implement Iowa Code sections 249.3, 249.4 and 249A.4.

ARC 8536C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to eligibility and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 51, “Eligibility,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 249.3 and 249.4.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. This proposed chapter outlines eligibility criteria for State Supplementary Assistance programs administered by the Department.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

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

Phone: 515.829.6021

Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 14, 2025 1 to 2 p.m.	Microsoft Teams Meeting ID: 231 057 860 353 Passcode: fLgjUS
January 17, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 230 344 825 539 Passcode: siQGLw

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 51 and adopt the following **new** chapter in lieu thereof:

CHAPTER 51 ELIGIBILITY

441—51.1(249) Definitions.

“Administrative overpayment” means assistance incorrectly paid to or for the client because of continuing assistance during the appeal process.

“Agency error” means assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the local office.
6. Failure to make prompt revisions in payment following changes in policies requiring the changes as of a specific date.

“Client” means a person who has been determined eligible and is a current or former recipient of state supplementary assistance.

“Client error” means assistance incorrectly paid to or for the client because the client or client's representative failed to disclose information or gave false or misleading statements, oral or written, regarding the client's income, resources, or other eligibility and benefit factors. It also means assistance incorrectly paid to or for the client because of failure by the client or client's representative to timely report changes as described in 441—Chapter 76.

441—51.2(249) Application for other benefits. An applicant or any other person whose needs are included in determining the state supplementary assistance payment must have applied for or be receiving all other benefits, including supplemental security income or the family investment program, for which the person may be eligible. The person must cooperate in the eligibility procedures while making application for the other benefits. Failure to cooperate shall result in ineligibility for state supplementary assistance.

441—51.3(249) Supplementation. Any supplemental payment made on behalf of the recipient from any source other than a nonfederal governmental entity will be considered as income, and the payment will be used to reduce the state supplementary assistance payment.

441—51.4(249) Eligibility for residential care.

51.4(1) Licensed facility. Payment for residential care can only be made when the facility in which the applicant or recipient is residing is currently licensed by the department of inspections, appeals, and licensing pursuant to laws governing health care facilities.

51.4(2) Physician's statement. Payment for residential care must be made only when there is on file an order written by a physician certifying that the applicant or recipient being admitted requires residential care but does not require nursing services. The certification will be updated whenever a change in the recipient's physical condition warrants reevaluation, but no less than every 12 months.

51.4(3) Income eligibility. The resident is income eligible when the income according to 441—paragraph 52.1(3) "a" is less than 31 times the maximum per diem rate. Partners in a marriage who both enter the same room of the residential care facility in the same month will be income eligible for the initial month when their combined income according to 441—paragraph 52.1(3) "a" is less than twice the amount of allowed income for one person (31 times the maximum per diem rate).

441—51.5(249) Dependent relatives.

51.5(1) Income. Income of a dependent relative must be less than the amount established by the department based on assistance standards as provided in rule 441—52.1(249). When the dependent's income is from earnings, an exemption of \$65 will be allowed to cover work expense.

51.5(2) Resources. The resource limitation for a recipient and a dependent child or parent is \$2,000. The resource limitation for a recipient and a dependent spouse is \$3,000. The resource limitation for a recipient, spouse, and dependent child or parent is \$3,000.

51.5(3) Living in the home. A dependent relative is eligible until the dependent relative is out of the recipient's home for a full calendar month starting at 12:01 a.m. on the first day of the month until 12 midnight on the last day of the same month.

51.5(4) Dependency. A dependent relative may be the recipient's ineligible spouse, parent, child, or adult child who is financially dependent upon the recipient. A relative will not be considered to be financially dependent upon the recipient when the relative is living with a spouse who is not the recipient.

441—51.6(249) Residence. A recipient of state supplementary assistance must be living in the state of Iowa.

441—51.7(249) Eligibility for supplement for Medicare and Medicaid eligibles. The following eligibility requirements are specific to the supplement for Medicare and Medicaid eligibles:

51.7(1) Medicaid eligibility. The recipient must be eligible for and receiving full medical assistance benefits under Iowa Code chapter 249A without regard to eligibility based on receipt of state supplementary assistance under this rule, and without being required to meet a spend down or pay a premium to be eligible for medical assistance benefits.

51.7(2) SSI eligibility. The recipient must meet all eligibility requirements for supplemental security income benefits other than limits on substantial gainful activity and income.

51.7(3) Not otherwise eligible. The recipient must not be eligible for benefits under another state supplementary assistance group.

51.7(4) Medicare eligibility. The recipient must be currently eligible for Medicare Part B.

51.7(5) Living arrangement. A recipient may live in one of the following:

- a. The person's own home.
- b. The home of another person.
- c. A group living arrangement.
- d. A medical facility.

51.7(6) Income. Income of a recipient must be within the income limit for the person's Medicaid eligibility group, but must exceed 120 percent of the federal poverty level.

441—51.8(249) Income from providing room and board. In determining income from furnishing room and board or providing family-life home care, the amount established by the department based on assistance standards as provided in rule 441—52.1(249) will be deducted to cover the cost, and the remaining amount will be treated as earned income.

441—51.9(249) Furnishing of social security number.

51.9(1) As a condition of eligibility, applicants or recipients of state supplementary assistance must furnish their social security account numbers or proof of application for the numbers if they have not been issued or are not known and provide their numbers upon receipt.

51.9(2) Assistance will not be denied, delayed, or discontinued pending the issuance or verification of the numbers when the applicants or recipients are cooperating in providing information necessary for issuance of their social security numbers.

441—51.10(249) Recovery.

51.10(1) Amount subject to recovery. The department will recover from a client all state supplementary assistance funds incorrectly expended to or on behalf of the client, or when conditional benefits have been granted.

a. The department will seek to recover the state supplementary assistance granted during the period of time that conditional benefits were correctly granted the client under the policies of the supplemental security income program.

b. The incorrect expenditures may result from client or agency error, or administrative overpayment.

51.10(2) Notification. All clients will be promptly notified when it is determined that assistance was incorrectly expended. Notification will include for whom assistance was paid; the time period during which assistance was incorrectly paid; the amount of assistance subject to recovery, when known; and the reason for the incorrect expenditure.

51.10(3) Source of recovery. Recovery will be made from the client or from parents of children under the age of 21 when the parents completed the application and had responsibility for reporting changes. Recovery must come from income, resources, the estate, income tax refunds, and lottery winnings of the client.

51.10(4) Repayment. The repayment of incorrectly expended state supplementary assistance funds will be made to the department.

51.10(5) Appeals. The client has the right to appeal the amount of funds subject to recovery under the provisions of 441—Chapter 7.

These rules are intended to implement Iowa Code sections 249.3 and 249.4.

ARC 8468C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rulemaking related to payment
and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) Department hereby proposes to rescind Chapter 52, “Payment,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 249 and section 147A.4 and 20 CFR Section 416, Subpart T.

Purpose and Summary

This proposed chapter outlines payment criteria and details for state supplementary assistance programs administered by HHS.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking., which must be received by HHS no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 14, 2025
1 to 2 p.m.

Microsoft Teams
Meeting ID: 231 057 860 353
Passcode: fLgjUS

January 17, 2025
11 a.m. to 12 noon

Microsoft Teams
Meeting ID: 230 344 825 539
Passcode: siQGLw

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 52 and adopt the following **new** chapter in lieu thereof:

CHAPTER 52
PAYMENT

441—52.1(249) Assistance standards. Assistance standards are the amounts of money allowed on a monthly basis to recipients of state supplementary assistance in determining financial need and the amount of assistance granted. Current assistance standards will be published on the department's website. Assistance standards will be adjusted annually to reflect cost-of-living adjustments (COLA) adopted by the Social Security Administration, in accordance with 20 CFR §416.2095 and 20 CFR §416.2096 as amended to March 15, 2022. Adjustments to the assistance standards based on COLA are effective January 1 of each year.

52.1(1) Protective living arrangement. Assistance standards will be established by the department as provided in this chapter for care and personal allowances for persons living in a family-life home certified under rules in 441—Chapter 111.

52.1(2) Dependent relative. Assistance standards for the following categories will be established by the department as provided in this chapter for state supplementary assistance for dependent relatives residing in a recipient's home.

- a. Aged or disabled client and a dependent relative.
- b. Aged or disabled client, eligible spouse, and a dependent relative.
- c. Blind client and a dependent relative.
- d. Blind client, aged or disabled spouse, and a dependent relative.
- e. Blind client, blind spouse, and a dependent relative.

52.1(3) Residential care. For periods of eligibility before July 1, 2017, the department will reimburse a recipient in either a privately operated or non-private operated residential care facility on a flat per diem rate or on a cost-related reimbursement system with a maximum per diem rate established consistent with the assistance standards principles provided in this chapter.

For periods of eligibility beginning July 1, 2017, and thereafter, payment to a recipient in a licensed residential care facility will be based on the maximum per diem rate.

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. All income of a recipient as described in this subrule after the disregards described in this subrule will be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care will be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

(1) When income is earned, impairment related work expenses, as defined by SSI plus \$65 plus one-half of any remaining earned income.

(2) An allowance established by the department consistent with this chapter will be given to meet personal expenses and Medicaid copayment expenses.

(3) When there is a spouse at home, the amount of the SSI benefit for an individual minus the spouse's countable income according to SSI policies. When the spouse at home has been determined eligible for SSI benefits, no income disregard will be made.

(4) When there is a dependent child living with the spouse at home who meets the definition of a dependent according to the SSI program, the amount of the SSI allowance for a dependent minus the dependent's countable income and the amount of income from the parent at home that exceeds the SSI benefit for one according to SSI policies.

(5) Established unmet medical needs of the resident, excluding private health insurance premiums and Medicaid copayment expenses. Unmet medical needs of the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, will be an additional deduction when the countable income of the spouse at home is not sufficient to cover those expenses. Unmet medical needs of the dependent living with the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, will also be deducted when the countable income of the dependent and the income of the parent at home that exceeds the SSI benefit for one is not sufficient to cover the expenses.

(6) The income of recipients of state supplementary assistance or Medicaid needed to pay the cost of care in another residential care facility, a family-life home, an in-home health-related care provider, a home- and community-based waiver setting, or a medical institution is not available to apply to the cost of care. The income of a resident who lived at home in the month of entry will not be applied to the cost of care except to the extent the income exceeds the SSI benefit for one person or for a married couple if the resident also had a spouse living in the home in the month of entry.

b. Payment is made for only the days the recipient is a resident of the facility. Payment must be made for the date of entry into the facility, but not the date of death or discharge.

c. Payment must be made in the form of a grant to the recipient on a post payment basis.

d. Payment must not be made when income is sufficient to pay the cost of care in a month with less than 31 days, but the recipient shall remain eligible for all other benefits of the program.

e. Payment will be made for periods the resident is absent overnight for the purpose of visitation or vacation. The facility will be paid to hold the bed for a period not to exceed 30 days during any calendar year, unless a family member or legal guardian of the resident, the resident's physician, case manager, or department service worker provides signed documentation that additional visitation days are desired by the resident and are for the benefit of the resident. This documentation shall be obtained by the facility for each period of paid absence that exceeds the 30-day annual limit. This information must be retained in the resident's personal file. If documentation is not available to justify periods of absence in excess of the 30-day annual limit, the facility shall submit a Case Activity Report, on a form prescribed by the department, to the county office of the department to terminate the state supplementary assistance payment.

A family member may contribute to the cost of care for a resident subject to supplementation provisions detailed in rule 441—51.2(249) and any contributions shall be reported to the county office of the department by the facility.

f. Payment will be made for a period not to exceed 20 days in any calendar month when the resident is absent due to hospitalization. A resident may not start state supplementary assistance on reserve bed days.

52.1(4) *Blind.* The standard for a blind recipient not receiving another type of state supplementary assistance is \$22 per month.

52.1(5) *In-home, health-related care.* Payment to a person receiving in-home, health-related care must be made in accordance with rules in 441—Chapter 177.

52.1(6) *Minimum income level cases.* The income level of those persons receiving old age assistance, aid to the blind, and aid to the disabled in December 1973 shall be maintained at the December 1973 level as long as the recipient's circumstances remain unchanged and that income level is

above current standards. In determining the continuing eligibility for the minimum income level, the income limits, resource limits, and exclusions that were in effect in October 1972 shall be utilized.

52.1(7) *Supplement for Medicare and Medicaid eligibles.* Payment to a person eligible for the supplement for Medicare and Medicaid eligibles shall be \$1 per month.

This rule is intended to implement Iowa Code chapter 249.

ARC 8519C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to facility participation and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 54, “Facility Participation,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 249 and 20 CFR Part 416, subpart T.

Purpose and Summary

This rulemaking is in response to Executive Order 10. The purpose of this proposed chapter is to provide criteria for eligibility, payments, services, and billing for residential care facility supplemental payment.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 14, 2025 10:30 to 11:30 a.m.	Microsoft Teams Meeting ID: 216 574 088 886 Passcode: 6byRqd
January 17, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 279 027 480 671 Passcode: RWrjKS

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 54 and adopt the following **new** chapter in lieu thereof:

CHAPTER 54 FACILITY PARTICIPATION

441—54.1(249) Application and contract agreement. Each facility desiring to participate in the state supplementary assistance program must enter into a contract with the department and agree to the provisions set forth in a contract in a form prescribed by the department. The effective date of the contract shall be the first of the month that the form is signed by the administrator of the facility and is received by the department. No payment shall be made for care provided before the effective date of the contract. The contract shall be in effect until the department ceases to participate in the program, until either party gives 60 days' notice of termination in writing to the other party, or until there is a change in ownership. The facility shall notify the department within 30 days of a change in ownership, a change in the number of beds, or a change in administrator.

This rule is intended to implement Iowa Code section 249.12.

441—54.2(249) Maintenance of case records. A facility must maintain a case folder for each individual residing in the facility that contains the following:

1. Contract between the facility and the resident on a form prescribed by the department.
2. Physician's statement certifying that the resident does not require nursing services.
3. Proof of expenditures from resident's "personal needs" allowance.

This rule is intended to implement Iowa Code section 249.12.

441—54.3(249) Payments for residential care facilities. Payments for residential care facilities will be made at the maximum per diem rate in 441—subrule 52.1(3).

54.3(1) *Failure to maintain records.* Failure to adequately maintain fiscal records, including census records, medical charts, ledgers, journals, tax returns, canceled checks, source documents, invoices, and audit reports by or for a facility, may result in the penalties specified in rule 441—79.3(249A).

54.3(2) *Termination or change of ownership.* A participating facility contemplating termination of participation or negotiating a change of ownership shall provide the department with at least 60 days prior notice. A transfer of ownership or operation terminates the participation agreement. A new owner or operator shall establish that the facility meets the conditions for participation and enter into a new agreement.

This rule is intended to implement Iowa Code section 249.12.

441—54.4(249) Goods and services provided. All facilities participating in the program shall provide residents those goods and services required by the terms of the license issued by the department of inspections, appeals, and licensing in accordance with Iowa Code chapter 135C and rules promulgated thereto set forth in 481—Chapter 57 and requirements of the department set forth in these rules.

54.4(1) *Payment accepted.* The amount of client participation and the payment made through the state supplementary assistance program shall be accepted as payment in full for the required goods and services provided to the resident. The facility may seek reimbursement from other sources for goods and services provided that are beyond the goods and services required to be provided by these rules.

54.4(2) *Care, maintenance, general supervision, and personal services.* Each facility, as part of providing care, maintenance, general supervision, and personal services, shall provide as necessary supervision or assistance with ambulation, grooming, hair washing, shaving, personal hygiene, bathing, getting in and out of bed, dressing, feeding, and medication that can be self-administered.

54.4(3) *Laundry.* Each facility shall provide personal laundry service to the resident as part of the goods and services paid for through the program.

54.4(4) *Room furnishings.* The facility shall completely furnish the resident's room in accordance with 481—subrule 57.30(4) without additional charge to the resident or person acting on the resident's behalf. When the resident wishes to provide some item or items of room furnishing, the facility may request the request.

This rule is intended to implement Iowa Code section 249.12.

441—54.5(249) Personal needs account. When a facility manages the personal needs funds of a resident, it shall establish and maintain a system of accounting for expenditures from the resident's personal needs funds. The personal needs funds shall be deposited in a single checking account, not commingled with trust funds from any other facility, nor commingled with facility operating funds except for facility funds, not to exceed \$500, deposited to cover bank charges and have in the account name the terms "Resident Trust Funds." The funds shall be deposited in a bank or other institution within the state of Iowa insured by the federal government. Expense for bank service charges for this account is a cost of doing business if the service cannot be obtained free of charge. The department will charge back to the facility any maintenance item included in the computation of the audit cost that is charged to the resident's personal needs allowance when such charge constitutes double payment. Unverifiable expenditures charged to personal needs accounts may be charged back to the facility. The accounting system is subject to audit by representatives of the department and shall meet the following criteria:

54.5(1) *Ledger.* Upon admittance, a ledger sheet shall be credited with the resident's total incidental money on hand. Thereafter, the ledger shall be kept current on a monthly basis. The facility may combine the accounting with the disbursement section showing the date, amount given the resident, and the resident's signature. A separate ledger shall be maintained for each resident.

54.5(2) *Expenditures.* When something is purchased for the resident and is not a direct cash disbursement, each such expenditure item in the ledger shall be supported by a signed, dated receipt. The receipt shall indicate the article furnished for the resident's benefit.

54.5(3) Disbursement. Personal funds shall be turned over only to the resident, the resident's guardian, or other persons selected by the resident. With the consent of the resident, when the resident is able and willing to give the consent, the administrator may turn over personal funds to a close relative or friend of the resident to purchase a particular item. A signed, dated receipt shall be required to be deposited in the resident's files.

54.5(4) Audit. The ledger and receipts for each recipient shall be made available for periodic audits by an accredited department representative. Audit certification shall be made by the department's representative at the bottom of the ledger sheet. Supporting receipts may then be destroyed.

54.5(5) Death. Upon a recipient's death, the funds remaining in the personal needs account shall be treated in the following manner:

a. The facility shall provide a written statement of the personal needs account to be filed in the case record.

b. When an estate is opened, the funds shall be submitted to the estate administrator.

c. When no estate is opened, the funds shall be released to the person assuming responsibility for the recipient's funeral expenses.

d. When no estate is opened and there are no living heirs, the funds shall be submitted to the department to escheat to the state.

This rule is intended to implement Iowa Code section 249.12.

441—54.6(249) Case activity report. Whenever a Medicaid applicant or recipient enters the facility, changes level of care, or is discharged from the facility, the facility shall notify the department on a form prescribed by the department.

This rule is intended to implement Iowa Code section 249.12.

441—54.7(249) Billing procedures. In order to determine the amount of payment to the recipient, the facility shall submit a billing form to the department following the month in which service was provided.

This rule is intended to implement Iowa Code section 249.12.

ARC 8533C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to interim assistance reimbursement and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 57, "Interim Assistance Reimbursement," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 1984 Iowa Acts, Chapter 1310.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 1984 Iowa Acts, Chapter 1310.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. The purpose of this proposed chapter is to reimburse states and their political subdivisions that have furnished interim assistance in cash or in the form of vendor payments. This chapter provides additional clarity and structure for implementation.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 14, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN
January 17, 2025 1:30 to 2:30 p.m.	Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 57 and adopt the following **new** chapter in lieu thereof:

CHAPTER 57
INTERIM ASSISTANCE REIMBURSEMENT

441—57.1(249) Definitions.

“*Benefits*” means Supplemental Security Income (SSI) for the aged, blind, and disabled (a federal cash assistance program under Title XVI of the Social Security Act as amended to August 1, 2024) and any federally administered state supplementary assistance payments that are determined by the Social Security Administration to be due an individual at the time the SSI payment is made.

“*County agency*” means a county or county subdivision under the jurisdiction of the county board of supervisors, including a county commission of veteran affairs, that furnishes relief in the form of cash or vendor payments to or on behalf of needy persons in accordance with established standards under the provisions of Iowa Code chapter 35B or 252.

“*Initial payment*” means the amount of benefits determined by the Social Security Administration to be payable to an eligible person (including any retroactive amounts) when the person is first determined to be eligible for SSI. The initial payment does not include any emergency advance payments, any presumptive disability or blindness payments, or any immediate payments authorized under Section 1631 of the Social Security Act as amended to August 1, 2024.

“*Initial posteligibility payment*” means the amount of benefits determined by the Social Security Administration to be payable to an eligible person (including any retroactive amounts) when the person is first determined eligible for SSI following a period of suspension or termination. The initial posteligibility payment does not include any emergency advance payments, any presumptive disability or blindness payments, or any immediate payments authorized under Section 1631 of the Social Security Act as amended to August 1, 2024.

“*Interim assistance*” means the same as defined in 20 CFR Part 416 as amended to August 1, 2024.

“*Interim period*” means either (1) the period beginning with the month following the month in which a person filed an application for benefits for which the person was found to be eligible and ending with and including the month the person’s benefits began, or (2) the period beginning the day the person’s benefits were reinstated after a period of suspension or termination, and ending with (and including) the month the person’s benefits were resumed. The interim period does not include any periods during which the person is underpaid by the Social Security Administration due to that agency’s failure to make a timely modification of the person’s SSI benefit or for any other reason.

441—57.2(249) Requirements for reimbursement. In order to receive reimbursement for interim assistance payments, a county agency must meet the following requirements:

57.2(1) Agreement. The county agency shall enter into a written agreement with the department of health and human services on a form prescribed by the department.

57.2(2) Authorization. The county agency shall secure written authorization from the person seeking interim assistance. By signing a form prescribed by the department, the person:

a. Indicates the intent to apply for SSI benefits.

b. Authorizes the Social Security Administration to:

(1) Withhold the amount of interim assistance from the person’s initial payment or initial posteligibility payment, and

(2) Make this amount payable to the county agency.

57.2(3) Records. The county agency shall:

a. Maintain a file for each person who has received interim assistance.

b. Maintain adequate records of all transactions made relating to interim assistance.

c. Comply with the provisions of the Federal Information Security Management Act (FISMA) as amended to August 1, 2024; 20 CFR Part 401 as amended to August 1, 2024; and the Privacy Act of 1974 as amended to August 1, 2024, relating to the safeguarding of information concerning individuals who have applied for interim assistance.

441—57.3(249) Certificate of authority.

57.3(1) The county agency shall submit the information requested on a form prescribed by the department to the Social Security Administration at the address given on the form:

- a.* Before the date the agency first participates in the program, and
- b.* Subsequently when changes in the list of authorized officials occur.

57.3(2) The county agency shall submit a copy of the form referenced in subrule 57.3(1) to the department at the address given on the form each time the form is submitted to the Social Security Administration.

These rules are intended to implement 1984 Iowa Acts, chapter 1310, section 9.

ARC 8524C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to refugee cash assistance and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 60, “Refugee Cash Assistance,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 217.6.

Purpose and Summary

This rulemaking is in response to Executive Order 10. These proposed rules define and structure the Department’s Refugee Cash Assistance (RCA) program. Eligibility criteria, application procedures, reasons for adverse action, payment procedures, and recoupment procedures for overpayments are outlined in the proposed rules.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 14, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN
January 17, 2025 1:30 to 2:30 p.m.	Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 60 and adopt the following **new** chapter in lieu thereof:

CHAPTER 60
REFUGEE CASH ASSISTANCE

441—60.1(217) Alienage requirements.

60.1(1) *Immigration status.* A refugee is a person whose immigration status is one of the following statuses as issued by the United States Immigration and Naturalization Service:

- a. Granted asylum under Section 208 of the Immigration and Nationality Act as amended to August 1, 2024.
- b. Admitted as a refugee under Section 207 of the Act.
- c. Paroled as a refugee or asylee under Section 212(d)(5) of the Act.
- d. Cuban and Haitian entrants in accordance with requirements in 45 CFR Part 401 as amended to March 22, 2000.
- e. Certain Amerasians from Vietnam who are admitted to the U.S. as immigrants pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts,

1988, as contained in Section 101(e) of Public Law 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Public Law 100-461 as amended to August 1, 2024).

f. Admitted for permanent residence, provided the individual previously held one of the statuses identified above.

60.1(2) *Nonrefugee child of refugee parents.* A nonrefugee child of refugee parents, when both parents in the home are refugees as defined in subrule 60.1(1), meets the alienage requirements. When only one parent is in the home and that parent is a refugee as defined in subrule 60.1(1), the child meets the alienage requirements.

60.1(3) *Immigration and Naturalization Service documents.* Each refugee shall provide Immigration and Naturalization Service documents in the form of either an I-94 card, an I-151 or I-551 card, an I-181 card, or other appropriate documentation to support the immigration status defined in subrule 60.1(1). If the name of the resettlement agency that resettled the refugee is not on the document, the refugee shall provide the name of the resettlement agency.

441—60.2(217) Application procedures. Application policies are defined in rules 441—40.3(239B), 441—40.4(239B), and 441—40.5(239B).

441—60.3(217) Effective date of grant. The date of eligibility for a grant is defined in rule 441—40.6(239B).

441—60.4(217) Accepting other assistance.

60.4(1) *Family investment program (FIP).* A refugee applicant or recipient shall accept a FIP grant if eligible under 441—Chapters 40 and 41.

60.4(2) *Supplemental security income (SSI).* Refugees who are 65 or older, blind, or disabled shall apply for and, if eligible, accept SSI.

441—60.5(217) Eligibility factors.

60.5(1) *Age.*

a. An unmarried refugee is considered an adult at age 18, except as defined in 441—subrule 41.1(1), and is eligible to receive refugee cash assistance if otherwise eligible.

b. Married refugees with or without children, as defined in 441—subrule 41.1(1), are eligible regardless of age if other eligibility factors are met.

60.5(2) *Residency.* Residency requirements are defined in 441—subrule 41.4(1).

60.5(3) *Social security numbers.* Refugees are required to furnish a social security number as defined in 441—subrule 41.3(11).

60.5(4) *Determination of need.* Need will be determined as defined in 441—41.9(239B), except as otherwise provided in this chapter.

60.5(5) *Income.* Income is defined in rules 441—40.1(239B) and 441—41.8(239B).

60.5(6) *Resources.* Resource requirements are defined in rule 441—41.7(239B).

441—60.6(217) Students in institutions of higher education. A refugee who is a full-time student in an institution of higher education (other than a correspondence school) is ineligible for assistance with two exceptions:

1. The refugee is in a program approved as part of an individual employability plan, as defined in subrule 60.9(3).

2. The refugee is in a program solely in English as a second language.

60.6(1) *Institution of higher education.* An institution of higher education is defined as an educational institution that provides an education program as specified below:

a. A public or private nonprofit institution of higher education is an educational institution that provides an educational program for which it awards an associate, baccalaureate, graduate, or professional degree; or at least a two-year program that is acceptable for full credit toward a

baccalaureate degree; or at least a one-year training program that leads to a certificate or degree and prepares students for gainful employment in a recognized occupation.

b. A proprietary institution of higher education is an educational institution that provides at least a six-month program of training to prepare students for gainful employment in a recognized occupation.

c. A postsecondary vocational institution is a public or private nonprofit educational institution that provides at least a six-month program of training to prepare students for gainful employment in a recognized occupation.

60.6(2) *Full-time student.* A full-time student is a student who is carrying a full-time academic workload that equals or exceeds the following:

a. Twelve semester or 12 quarter hours per academic term in those institutions using standard semester, trimester, or quarter-hour systems.

b. Twenty-four semester hours or 36 quarter hours per academic year for institutions using credit hours to measure progress, but not using semester, trimester, or quarter systems, or the prorated equivalent for programs of less than one academic year.

c. Twenty-four clock hours per week for institutions using clock hours.

d. A series of courses or seminars that equals 12 semester hours or 12 quarter hours in a maximum of 18 weeks.

e. The work portion of a cooperative education program in that the amount of work performed is equivalent to the academic workload of a full-time student.

441—60.7(217) Time limit for eligibility.

60.7(1) *Assistance.* A refugee may receive assistance, if otherwise eligible:

a. For refugees who entered the country prior to October 1, 2021, during the first eight months the refugee is in the United States, beginning the month the refugee enters the country.

b. For refugees who entered the country on or after October 1, 2021, during the first 12 months the refugee is in the United States, beginning the month the refugee enters the country.

Exception: For asylees, the date of entry is the date asylum is granted. The 8-month or 12-month period of eligibility begins the month asylum is granted. A nonrefugee child in the home with a refugee parent (or refugee parents, if both are in the home) is eligible for assistance until the parent(s) has been in the United States for 8 or 12 months, or until the child reaches 8 or 12 months of age, whichever occurs first. For Afghan special immigrant (SI) parolees and Afghan SI conditional permanent residents (CPRs), the date is the date of “entry into the community,” which is the date the individual departed a safe haven. For Afghan humanitarian parolees, the date is the latter of October 1, 2021, or the date of entry into the community, which is the date the individual departed a safe haven. “Safe haven” is the term the U.S. government and other relevant stakeholders have used for U.S. military bases in the continental United States that housed Afghans evacuated under Operation Allies Refuge/Operation Allies Welcome (OAR/OAW) as Afghans awaited resettlement to their ultimate state of residence.

60.7(2) *Resources.* The resources of refugees excluded because of the 8-month or 12-month limit will be considered in the same manner as though these refugees were included in the eligible group.

60.7(3) *Income.*

a. When the eligible refugee group has income, the income will be diverted to meet the needs of the refugees ineligible because of the time limit who would otherwise have been included in the refugee assistance group as defined in subrule 60.5(4).

b. The income of the refugees ineligible because of the time limit who would otherwise have been included in the assistance group as defined in subrule 60.5(4), will be used first to meet the needs of the ineligible group and then applied to the eligible group’s needs.

c. The amount of need for the ineligible group is the difference between the needs of the group including the ineligible refugees and the needs of the group excluding the ineligible refugees. Any excess income will be applied to the needs of the eligible group.

d. Any cash grant received by the applicant under the Department of State or the Department of Justice reception and placement programs will be disregarded as income and as a resource.

441—60.8(217) Criteria for exemption from registration for employment services, registration, and refusal to register. Each refugee applying for or receiving cash assistance shall register for employment unless the department determines the refugee is exempt because of reasons listed in subrule 60.8(1). Inability to communicate in English does not exempt a refugee from registration for employment services, participation in employability service programs and acceptance of appropriate offers of employment.

60.8(1) Exemptions. The following refugees are exempt from registration:

a. A refugee who is under the age of 16; or who is aged 16 but under the age of 18 and attending elementary, secondary, or vocational or technical school full-time; or a refugee who is enrolled full-time in training approved by the local office as part of an approved employability plan; or a refugee 18 years of age who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching the age of 19.

(1) A refugee will be considered as attending school full time when enrolled or accepted full time (as certified by the school or institute attended) in a school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

(2) The refugee also will be considered in regular attendance in months when the refugee is not attending because of an official school or training program, vacation, illness, convalescence, or family emergency. A refugee meets the definition of regular school attendance until the refugee has been officially dropped from the school rolls.

(3) When the refugee's education is temporarily interrupted pending adjustment of the education or training program, assistance will be continued for a reasonable period of time to complete the adjustment.

b. A refugee aged 65 or older.

c. A refugee who is caring for another member of the household who has a physical or mental impairment that requires, as determined by a physician or licensed or certified psychologist and verified by the department, care in the home on a substantially continuous basis, and no other appropriate member of the household is available.

d. A woman who is pregnant if it has been medically verified that the child is expected to be born in the month in which registration would otherwise be required or within the next six months.

e. A parent or other caretaker relative of a child under the age of three who personally provides full-time care for the child with only very brief and infrequent absences from the child. Only one parent or other caretaker relative in a case may be exempt under this paragraph. "Brief and infrequent absence" means short-term absences that do not reoccur on a regular basis. Any involvement by the parent employed less than 129 hours per month or attending school less than full-time, as defined by the school, will be considered brief and infrequent. Recreational activities and vacations by the parent or child that result in the parent being absent from the child will be considered brief and infrequent.

f. A refugee who is working at least 30 hours a week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than ten workdays.

g. A refugee who is ill, when determined by the department on the basis of medical evidence or another sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training.

h. A refugee who is incapacitated, when determined by a physician or licensed or certified psychologist and verified by the department, that a physical or mental impairment, by itself or in conjunction with age, prevents the refugee from engaging in employment or training.

60.8(2) Registration. A refugee not exempt under subrule 60.8(1) will be considered an employable refugee. An employable refugee shall register with the department of workforce development and, within 30 days of receipt of aid, participate in the employment services provided by the bureau of refugee services. The department does permit, but does not mandate, the voluntary registration for employment services of any applicant or recipient of refugee cash assistance who is exempt under the provisions of this rule. If a voluntary registrant fails or refuses to participate in appropriate employability services, to carry out job search, or to accept an appropriate offer of employment, the bureau of refugee services may

de-register the refugee for up to 90 days from the date of determination that failure or refusal has occurred, but the refugee's cash assistance will not be affected.

60.8(3) *Refusal to register.*

a. An employable applicant refugee who refuses or fails to cooperate in accepting a referral to the department of workforce development or the bureau of refugee services, refuses or fails to appear at the department of workforce development office for registration, or refuses or fails to mail or deliver the registration form to the bureau of refugee services, will be denied assistance.

b. Assistance for an employable recipient refugee will be terminated when the refugee refuses or fails to register with the department of workforce development or the bureau of refugee services.

441—60.9(217) Work and training requirements.

60.9(1) *Standards applicable to both work and training assignments.* The following standards must be met before an employable refugee can be required to accept a work or training assignment. A job offered, if determined appropriate under subrules 60.9(1) and 60.9(2), is required to be accepted by the refugee without regard to whether the job would interrupt a program of services planned or in progress unless the refugee is currently participating in a program in progress of on-the-job training or vocational training approved as part of an individual's employability plan or the refugee is enrolled full-time in a professional recertification program approved as part of an individual's employability plan.

a. The job or training referral must be related to the physical and mental capability of the person to perform the task on a regular basis. Any claim of adverse effect on physical or mental health will be based on adequate medical testimony from a physician or licensed or certified psychologist indicating that participation would impair the person's physical or mental health.

b. The total daily commuting time to and from home to the work or training site to which the person is referred shall not normally exceed two hours, not including the transporting of a child to and from a child care facility, unless a longer commuting distance and time is generally accepted in the community, in which case the round trip commuting time shall not exceed the generally accepted community standards.

c. The work or training site to which the person is referred must not be in violation of applicable federal, state, and local health and safety standards.

d. Referrals shall not be made that are discriminatory in terms of age, sex, race, creed, color, or national origin.

e. When child care is required, the child care must meet state licensing or registration requirements.

f. Available manpower statistics for a local area must indicate adequate employment potential for persons obtaining the given training. The employment must also meet the other appropriate work requirements.

g. The work or training assignment must be within the scope of the refugee's employability plan.

h. The quality of training must meet local employers' requirements so that the refugee will be in a competitive position within the local labor market. The training must also be likely to lead to employment that will meet the appropriate work criteria.

i. If a refugee is a professional in need of professional refresher training and other recertification services in order to qualify to practice the refugee's profession in the United States, the training may consist of full-time attendance in a college or professional training program, provided that the training is approved by the department as a part of the refugee's employability plan; it does not exceed one year's duration (including any time enrolled in the program in the United States prior to the refugee's application for assistance); it is specifically intended to assist the professional in becoming relicensed in the refugee's profession; and, if completed, it can realistically be expected to result in relicensing.

60.9(2) *Appropriate work requirements.* The local office, in making a determination of appropriate work, shall utilize the following criteria:

a. Appropriate work may be temporary, permanent, full-time, part-time, or seasonal work if it meets the other work standards defined in subrule 60.9(1).

b. The wage shall meet or exceed the federal or state minimum wage law, whichever is applicable, or if these laws are not applicable, the wage shall not be less favorable than the wage normally paid for similar work in that labor market but in no event shall it be less than three-fourths of the minimum wage rate.

c. The daily hours of work and the weekly hours of work shall not exceed those customary to the occupation.

d. No person shall be required to accept employment if:

(1) The position offered is vacant due to a strike, lockout, or other bona fide labor dispute.

(2) The person would be required to work for an employer contrary to the conditions of the person's existing membership in the union governing that occupation. However, employment not governed by the rules of a union in which the person has membership may be deemed appropriate.

60.9(3) *Development of an individual employability plan.* An individual employability plan will be developed as a part of a family self-sufficiency plan where applicable for each recipient of refugee cash assistance in a filing unit who is not exempt under subrule 60.8(1). The individual employability plan will:

a. Be designed to lead to the earliest possible employment and not be structured in such a way as to discourage or delay employment or job seeking.

b. Contain a definite employment goal, attainable in the shortest time period consistent with the employability of the refugee in relation to job openings in the area.

60.9(4) *Job search requirements.* The department will mandate job search for employable refugees where appropriate.

a. An employable recipient of refugee cash assistance shall carry out a job search program beginning at any time mandated by the bureau of refugee services. The bureau of refugee services will require the job search program to begin no later than six months after the refugee entered the United States or at the time the refugee is determined eligible for refugee cash assistance, if the refugee has completed at least six months in the United States at the time of the determination.

b. The job search program shall continue for at least eight consecutive weeks and shall meet requirements that the bureau of refugee services determines appropriate, including the amount of time to be devoted to employer contacts per week or the number of employer contacts mandated per week.

c. The department will determine and carry out the procedures it considers necessary to ensure that mandates for participation in job search are met.

60.9(5) *Failure or refusal to accept employability services or employment.*

a. Unless the refugee is exempt as described at rule 441—60.8(217), the department will terminate assistance when an employable recipient of refugee cash assistance has failed or refused to comply with any of the following requirements without good cause. The refugee shall:

(1) Register for employment with the department of workforce development and, within 30 days of receipt of cash assistance, participate in employment services provided by the bureau.

(2) Apply for or accept an offer of employment meeting the standards above.

(3) Carry out job search.

(4) Go to a job interview arranged by the department or its designee.

(5) Participate in an employability service program that is determined to be available and appropriate for that refugee.

(6) Not voluntarily quit a job.

(7) Participate in a social service or targeted assistance program that the department determines to be available and appropriate for that refugee.

b. In cases of proposed action to terminate, discontinue, suspend, or reduce assistance, the department will give timely and adequate notice, following the same procedures as those used in the family investment program. The written notice will include:

(1) An explanation of the reason for the action and the consequences of failure or refusal.

(2) Notice of the refugee's right to file an appeal with the department. The department will determine whether a hearing will be granted.

c. For the first refusal or failure the refugee will be sanctioned for three payment months. Subsequent refusals or failures will result in a six-payment month sanction for each refusal or failure.

d. If the sanctioned individual is the only member of the filing unit, the assistance will be terminated. If the filing unit includes other members, the department will not take into account the sanctioned individual's needs in determining the filing unit's need for assistance.

e. A conciliation period prior to the imposition of sanctions must be provided for in accordance with the following time limitations. The conciliation effort will begin as soon as possible, but no later than 10 days following the date of failure or refusal to participate, and may continue for a period not to exceed 30 days. Either the department or the recipient may terminate this period sooner when either believes that the dispute cannot be resolved by conciliation.

441—60.10(217) Uncategorized factors of eligibility.

60.10(1) *Duplication of assistance.* A refugee whose needs are included in a refugee cash assistance grant will not concurrently receive a grant under any other public assistance program administered by the department. Neither will a recipient concurrently receive a grant from a public assistance program in another state.

60.10(2) *Contracts for support.* A person entitled to total support under the terms of an enforceable contract is not eligible to receive refugee cash assistance when the other party, obligated to provide the support, is able to fulfill that part of the contract.

60.10(3) *Participation in a strike.*

a. The spouse and children will be ineligible for assistance for any month in which the other spouse or parent is participating in a strike on the last day of the month.

b. Any person will be ineligible for assistance for any month in which the person is participating in a strike on the last day of that month.

c. Definitions of a strike and participating in a strike are defined in 441—paragraph 41.6(4)“c.”

60.10(4) *Restrictions.* Restrictions found in 441—subrule 41.6(7) apply to benefits issued under this chapter.

441—60.11(217) Temporary absence from home. Temporary absence from home is defined in 441—subrule 41.4(3).

441—60.12(217) Application. The application will be processed as defined in rule 441—40.2(239B).

441—60.13(217) Continuing eligibility. Continuing eligibility will be determined as defined in rule 441—40.7(239B), except that refugee cash assistance will be substituted for the family investment program whenever it appears.

441—60.14(217) Alternate payees. Alternate payees are defined in 441—Chapter 40, except that refugee cash assistance will be substituted for the family investment program whenever it appears.

441—60.15(217) Payment. Payment will be issued as defined in 441—Chapter 45, except that refugee cash assistance will be substituted for the family investment program whenever it appears.

441—60.16(217) Overpayment recovery. Recovery of overpayments will be determined as defined in 441—Chapter 46, except that refugee cash assistance will be substituted for the family investment program whenever it appears.

These rules are intended to implement Iowa Code section 217.6.

ARC 8525C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rulemaking related to rent reimbursement
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 62, “Rent Reimbursement,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 425.16 through 425.37, 425.39 and 425.40.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 425.16 through 425.37, 425.39 and 425.40.

Purpose and Summary

This proposed rulemaking is undertaken in response to Executive Order 10. This proposed chapter provides guidance on eligibility for and parameters of Iowa’s Rent Reimbursement program.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 14, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN
January 17, 2025 1:30 to 2:30 p.m.	Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 62 and adopt the following **new** chapter in lieu thereof:

CHAPTER 62
RENT REIMBURSEMENT

441—62.1(425) Eligible claimants. This rule is effective for rent reimbursement claims received by the department on or after January 1, 2023.

This rule is intended to implement Iowa Code section 425.16(2) “b.”

441—62.2(425) Dual claims.

62.2(1) A claimant changing homesteads during the base year who will make property tax payments during the fiscal year following the base year and who also made rent payments during the base year is entitled to receive both a property tax credit and rent reimbursement.

62.2(2) Claimants must file separate claim forms for the property tax credit and the rent reimbursement with the county treasurer and the department, respectively.

62.2(3) The claims are to be based on the actual property tax due and rent constituting property tax paid, with a combined maximum of \$1,000 upon which the credit and reimbursement can be calculated.

EXAMPLE: \$800 property tax due
\$400 rent constituting property taxes paid

- a. The claim form for calculating the property tax credit must reflect the entire \$800 amount.
- b. The claim form for calculating the rent reimbursement must reflect only the remaining \$200 of the \$1,000 maximum allowance.
- c. The department will issue refund warrants for rent reimbursement claims. The county treasurer will apply the credit.

This rule is intended to implement Iowa Code section 425.24.

441—62.3(425) Multipurpose building.

62.3(1) A multipurpose building is a building that is used for other purposes in addition to being used for living accommodations. If a portion of a homestead property is utilized for business purposes, the property is considered to be a multipurpose building.

62.3(2) The portion of the property tax due or rent constituting property tax paid attributable to the homestead only is to be used in determining the allowable credit or reimbursement. This portion is to be calculated by determining the percentage of the homestead square footage to the square footage of the entire multipurpose structure. This percentage is then to be applied to the property tax due in the current fiscal year or rent constituting property tax paid for the base year.

This rule is intended to implement Iowa Code section 425.17(8).

441—62.4(425) Income.

62.4(1) Income includes the amount of in-kind assistance received by the claimant for housing expenses such as federal rent subsidy payments made directly to the landlord on behalf of the claimant and energy assistance benefits received by the claimant from or through a public utility.

62.4(2) In determining income, net operating losses and net capital losses are not to be considered. If the comparison of gains and losses results in a net gain, such amount shall be considered income. If the comparison results in a net loss, the net loss shall be disregarded.

This rule is intended to implement Iowa Code section 425.17(7).

441—62.5(425) Simultaneous homesteads. A person who rents one property and also rents another property for a simultaneous period of time is limited to claiming rent reimbursement on the property that is considered the person's domicile.

This rule is intended to implement Iowa Code section 425.17(4).

441—62.6(425) Mobile, modular, and manufactured homes. Rent paid by an eligible claimant for occupancy of a mobile, modular, or manufactured home subject to the annual tax as provided in Iowa Code chapter 435 is subject to reimbursement regardless of how the home is taxed.

This rule is intended to implement Iowa Code section 425.17(4).

441—62.7(425) Totally disabled.

62.7(1) A claimant is considered totally disabled only if the physical or mental impairment or impairments are of such severity that the claimant is not only unable to do work previously performed but cannot, considering the claimant's age, education, and work experience, engage in any other kind of substantial gainful work that exists in the national economy, regardless of whether such work exists in the immediate area in which the claimant lives, or whether a specific job vacancy exists, or whether the claimant would be hired if the claimant applied for work.

62.7(2) For purposes of this rule, a person shall not be considered unable to engage in substantial gainful employment unless the person has attained the age of 18 on or before December 31 of the base year.

This rule is intended to implement Iowa Code section 425.17(11).

441—62.8(425) Household. "Household" includes the claimant and the claimant's spouse if living with the claimant at any time during the base year. "Living with" does not include a temporary visit. Only one claimant per household is entitled to a reimbursement.

This rule is intended to implement Iowa Code sections 425.17(5) and 425.22.

441—62.9(425) Homestead. A person who owns a homestead but is confined to a care facility shall be considered as occupying the owned homestead, provided the person does not lease or otherwise receive profits from others for the use of the homestead. The person shall be eligible for a property tax credit but shall not be eligible for a rent reimbursement.

This rule is intended to implement Iowa Code section 425.17(4).

441—62.10(425) Gross rent/rent constituting property taxes paid. “Gross rent” means the total amount of rent paid for use of the homestead by the claimant.

This rule is intended to implement Iowa Code section 425.17(3).

441—62.11(425) Leased land. An individual who owns a dwelling located on land owned by another may claim a credit of property taxes due on the dwelling and a reimbursement of rental payments made for the use of the land if the land has been assessed for taxation.

This rule is intended to implement Iowa Code section 425.17(4).

441—62.12(425) Property: taxable status. If the property was taxable for only part of the base year, the rent reimbursement must be prorated accordingly (OP.ST. BD. Tax Rev. 187). However, this restriction does not apply to property that became tax exempt on or after July 1, 1986, provided the claimant received a reimbursement of rent constituting property taxes paid on the property when it was in a taxable status and continues to reside in the same property.

This rule is intended to implement Iowa Code section 425.17(4).

441—62.13(425) Income: spouse. The income of a spouse does not have to be reported on the claimant’s return unless the spouse lived with the claimant at the property upon which rent reimbursement is claimed. If the spouse lived with the claimant for only a portion of the base year, only that portion of the spouse’s income that was received while living with the claimant must be reported as income on the claimant’s return. If the spouse is eligible to claim reimbursement, the spouse does not have to include any income that was reported on the other claimant’s (spouse’s) return.

This rule is intended to implement Iowa Code section 425.17(6).

441—62.14(425) Common law marriage.

62.14(1) A common law marriage is a social relationship between two persons that meets all the necessary requisites of a marriage except that it was not solemnized, performed, or witnessed by an official authorized by law to perform marriages.

62.14(2) The necessary elements of a common law marriage are:

- a. A present intent of both parties freely given to become married,
- b. A public declaration by the parties or a holding out to the public that they are spouses,
- c. Continuous cohabitation together as spouses (this means consummation of the marriage), and
- d. Capability of both parties to enter into the marriage relationship.

62.14(3) No special time limit is necessary to establish a common law marriage.

This rule is intended to implement Iowa Code section 425.17.

441—62.15(425) Audit of claim.

62.15(1) Authority. The department may investigate the eligibility of a claimant for rent reimbursement.

62.15(2) Recomputed rent reimbursement claim. If the department determines a computed rent reimbursement is in error, the department shall collect any overpayment from the claimant or reimburse the claimant for any underpayment. If a claimant fails to reimburse the department for an overpayment, the amount of overpayment shall be deducted from any future rent reimbursement to which the claimant is entitled.

This rule is intended to implement Iowa Code section 425.27.

441—62.16(425) Extension of time for filing a claim. The granting of an extension of time for filing a claim for reimbursement does not extend the time within which or the dates on or by which eligibility requirements must be satisfied.

This rule is intended to implement Iowa Code section 425.20.

441—62.17(425) Proration of claims. If the director or the director’s designee determines that the amount of funding provided pursuant to Iowa Code section 425.39 will be insufficient to pay all rent

reimbursement claims filed, the director or the director's designee will estimate the percentage at which the claims will be paid and will prorate the payment of each rent reimbursement claim by the same estimated percentage.

This rule is intended to implement Iowa Code sections 25B.7 and 425.39.

441—62.18(425) Unreasonable hardship. In order to avoid any unreasonable hardship to a claimant, the director or the director's designee may review the facts and circumstances of the claim as set forth by the claimant. The director or the director's designee may investigate all factors related to the specific case as deemed appropriate by the director or the director's designee. If the director or the director's designee is satisfied that the claim qualifies as an undue hardship for the claimant, the claim will be approved by the director or the director's designee.

This rule is intended to implement Iowa Code section 425.37.

441—62.19(425) Appeal. Notice of adverse action taken by the department shall be issued in accordance with 441—Chapter 16, and the right to appeal shall be given in accordance with 441—Chapter 7.

This rule is intended to implement Iowa Code chapter 17A.

ARC 8534C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to supplemental nutrition assistance program administration and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 65, "Supplemental Nutrition Assistance Program Administration," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 234.6 and 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 234; H.R.2. Agriculture Improvement Act of 2018; Food and Nutrition Act of 2008; 7 U.S.C. Section 2011 et seq. as amended through Public Law (PL) 115-334, enacted December 20, 2018; 7 CFR Parts 271, 272, 273, and 274; Title VI Appendix, pg. 275; PL 107-171; PL 102-237; and PL 99-603.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. The Supplemental Nutrition Assistance Program (SNAP) provides food benefits to eligible low-income families to supplement their food budget. This proposed chapter is intended to structure, simplify, and provide familiarity with the Department's implementation of SNAP.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 14, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN
January 17, 2025 1:30 to 2:30 p.m.	Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 65 and adopt the following **new** chapter in lieu thereof:

TITLE VII
FOOD PROGRAMS

CHAPTER 65

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ADMINISTRATION

441—65.1(234) Definitions.

“Notice of expiration” means a message printed on a form prescribed by the department, which is automatically issued to the household.

“Supplemental Nutrition Assistance Program” or *“SNAP”* means benefits provided by the federal program administered through 7 CFR Parts 270 through 283 (May 2, 2022).

441—65.2(234) Administration of program. SNAP will be administered in accordance with the Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq. (August 1, 2024); 7 CFR Parts 270 through 283 (May 2, 2022); PL 99-603 (August 1, 2024); PL 104-193 (August 1, 2024); PL 107-171 (August 1, 2024); and with 42 U.S.C. Chapter 7 (January 7, 2011). A copy of the federal law and regulations may be obtained at no more than the actual cost of reproduction by contacting the department.

441—65.3(234) State options. The state of Iowa has selected SNAP state options that are tailored to meet the state’s operational considerations and policy preferences. These options can be viewed on the U.S Department of Agriculture website under the State Options Report.

441—65.4(234) Treatment centers and group living arrangements. Substance use treatment or rehabilitation centers and group living arrangements shall provide a list of participating residents to the department on a monthly basis.

441—65.5(234) Appeals. Fair hearings and appeals are provided according to 441—Chapter 7.

441—65.6(234) Proration of benefits. Benefits will be prorated using a 30-day month.

441—65.7(234) Notice of expiration issuance. Issuance of the automated Notice of Expiration will occur with the mailing of a form prescribed by the department.

441—65.8(234) Verification. Persons whose applications meet the initial criteria for error-prone cases may be subject to special verification procedures, including a face-to-face interview and additional documentation requirements in accordance with 481—Chapter 72.

Failure to cooperate with the investigations division of the department of inspections, appeals, and licensing in establishing eligibility factors will not result in denial or cancellation of the household’s SNAP benefits. The investigations division will gather as much information as possible without the client’s cooperation. If further information is needed based on those findings, a request for information must be sent to the household.

441—65.9(234) Prospective budgeting.

65.9(1) Weekly or biweekly income. The department will convert income and deductions that occur on a weekly or biweekly basis to monthly figures using family investment program (FIP) procedures.

65.9(2) Income averaging. The department will average income by anticipating income fluctuations over the certification period. The number of months used to arrive at the average income should be the number of months that are representative of the anticipated income fluctuation.

441—65.10(234) Effective date of change. A SNAP change caused by, or related to, a public assistance grant change will have the same effective date as the public assistance change.

441—65.11(234) Work requirements. As a condition of eligibility for SNAP benefits, each nonexempt household member must comply with SNAP work requirements.

65.11(1) Deregistration. Work registrants who obtain employment or otherwise become exempt from the work requirement subsequent to registration or who are no longer certified for participation are no longer considered registered.

65.11(2) Employment and training (E&T) program. The department will design and operate an employment and training program with the purpose of providing SNAP participants opportunities to gain skills, training, work, or experience that will increase their ability to obtain regular employment and

meet state or local workforce needs in accordance with the Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq. (August 1, 2024).

- a.* The employment and training program serves individuals who are:
 - (1) SNAP recipients or SNAP applicants.
 - (2) Not receiving FIP assistance or other cash assistance under Title IV such as Tribal Temporary Assistance for Needy Families (TANF) or Refugee Cash Assistance.
 - (3) Physically and mentally able to work or will be able to work within the next one year.
- b.* The department or its designee shall serve as the provider of employment and training services for SNAP recipients who wish to volunteer, except for those who are also recipients of FIP benefits. Federal law prohibits FIP recipients from participating in any SNAP E&T program.
- c.* The program offers a range of services from basic skills to advanced occupational training in order to accommodate persons with various levels of need and abilities. The department or its designee may require a potential E&T participant to engage in aptitude or vocational testing activities when deemed necessary to determine if a component is appropriate for improving employability.
- d.* The E&T program will be designed in consultation with the state workforce development board or with private employers or employer organizations if the department determines the latter approach is more effective and efficient.
 - (1) The E&T program will be designed to include case management services and at least one or more or a combination of employment and training components.
 - (2) An E&T plan will be submitted to the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture annually, in accordance with 7 CFR 273.7(c)(6) (May 2, 2022), and will be amended as necessary within the required time frame prior to implementation.

441—65.12(234) Income. In determining eligibility, the department will exclude educational income, including any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like excluded under Title XIX of the Social Security Act (42 U.S.C. Section 1396 2011 et seq. (August 1, 2024)) for the state's modified adjusted gross income (MAGI)-related medical assistance program, subject to subrule 65.12(4).

65.12(1) Notwithstanding anything to the contrary in these rules or regulations, the department will exclude educational income based on amounts earmarked by the institution, school, program, or other grantor as made available for the specific costs of tuition, mandatory fees, books, supplies, transportation, and miscellaneous personal expenses (other than living expenses).

65.12(2) If the institution, school, program, or other grantor does not earmark amounts made available for the allowable costs involved, students will receive an exclusion from educational income for educational assistance verified by the student as used for the allowable costs involved. Students can also verify the allowable costs involved when amounts earmarked are less than amounts that would be excluded by a strict earmarking policy.

65.12(3) For the purpose of this rule, mandatory fees include the rental or purchase of equipment, materials and supplies related to the course of study involved.

65.12(4) Certain types of student income will be treated as follows, regardless of how they are considered for MAGI-related medical assistance.

- a.* Wages are not excluded.
- b.* Federally funded work study is excluded.
- c.* State-funded work study is excluded up to the amount earmarked for educational expenses.

441—65.13(234) Deductions. A household in which all members are homeless may choose the homeless standard deduction in place of the shelter and utility expenses deduction.

65.13(1) Households choosing this option are not required to verify shelter-related expenses.

65.13(2) Households choosing this option are not eligible to receive a shelter or utility deduction.

65.13(3) The amount of the homeless standard deduction is determined by the FNS and adjusted annually.

441—65.14(234) Student resources. Any income excluded by rule 441—65.12(234) will be excluded from resources.

441—65.15(234) Reinstatement. When assistance has been canceled for failure to provide requested information, assistance will be reinstated without a new application if all information necessary to establish eligibility, including verification of any changes, is provided within 14 days of the effective date of cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance will be the date all information required to establish eligibility is provided.

These rules are intended to implement Iowa Code sections 234.12 and 234.6.

ARC 8473C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to emergency food assistance program and providing an opportunity for public comment

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 66, “Emergency Food Assistance Program,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 234.12, 7 CFR Part 250, and 7 CFR Part 251.

Purpose and Summary

This rulemaking is undertaken pursuant to Executive Order 10. This proposed chapter sets forth household eligibility criteria for The Emergency Food Assistance Program (TEFAP) in Iowa.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. Public hearings were held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by HHS no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 14, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN
January 17, 2025 1:30 to 2:30 p.m.	Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 66 and adopt the following **new** chapter in lieu thereof:

CHAPTER 66
EMERGENCY FOOD ASSISTANCE PROGRAM

441—66.1(234) Definitions.

“*Household*” means a single individual living alone or a group of related or nonrelated individuals who live together, who are not boarders or residents of an institution, and who purchase and prepare food for home consumption.

“*TEFAP*” means The Emergency Food Assistance Program as authorized by the Emergency Food Assistance Act of 1983 as amended through PL 107-249, enacted October 23, 2002.

441—66.2(234) Household eligibility. Household eligibility is determined by residence, household size, and income.

66.2(1) Residence. Household members must be residing in the state of Iowa.

66.2(2) *Household size.* Household size is determined by the number of people living in a dwelling, excluding boarders, as household is defined in rule 441—66.1(234).

66.2(3) *Income eligibility.* All earned and unearned income of the household must be considered in determining eligibility.

a. Income defined. Income means all income received by an individual from sources identified by the U.S. Census Bureau in computing median income and includes:

- (1) Money wages or salary;
- (2) Net income from nonfarm self-employment;
- (3) Net income from farm self-employment;
- (4) Dividends;
- (5) Interest;
- (6) Income from estates or trusts;
- (7) Net rental income and royalties;
- (8) Public assistance or welfare payments;
- (9) Pensions and annuities;
- (10) Workers' compensation;
- (11) Alimony;
- (12) Child support;
- (13) Veterans' pensions;
- (14) Social security;
- (15) Railroad retirement;
- (16) Supplemental security income;
- (17) State or federal assistance;
- (18) Veterans' benefits;
- (19) Black lung benefits;
- (20) All disability pensions;
- (21) State supplementary assistance;
- (22) Unemployment compensation benefits; and
- (23) Income from minors under 16 years of age.

b. Determination of income. Earned or unearned income is the gross annual, monthly, or weekly income.

- (1) Biweekly income is to be multiplied by 2.15 to determine monthly income.
- (2) Adjusted gross self-employment income will be averaged over a 12-month period.
- (3) Income received from interest and dividends will be averaged over a 12-month period.
- (4) The amount of income that stops or starts during the month will be estimated based on the best information available.

c. Income exclusions. When calculating total household income for this program, all income must be excluded that is specifically excluded for food assistance by federal statute, especially those sources listed in federal regulations at 7 CFR 273.9(c)(10) as amended to May 2, 2022.

d. Income guidelines. Households are eligible for TEFAP when the countable household income is at or below 185 percent of the federal poverty guidelines. These federal guidelines are revised annually, effective every July 1.

These rules are intended to implement Iowa Code sections 234.6 and 234.12.

ARC 8537C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to special supplemental nutrition program for women, infants, and children and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to adopt a new Chapter 67, “Special Supplemental Nutrition Program for Women, Infants, and Children (WIC),” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 234.6(1)“f.”

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514; 42 U.S.C. Section 1786; and 7 CFR Part 246.

Purpose and Summary

This proposed rulemaking is in response to Executive Order 10. The rules are also being moved from agency number [641] to agency number [441] pursuant to 2023 Iowa Acts, Senate File 514. The WIC program must follow United States Department of Agriculture (USDA) regulations. States do have some flexibility in how some of the federal regulations are implemented—the Iowa Administrative Code can provide more Iowa-specific practices; however, the USDA regulations would take precedence.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 14, 2025
2:30 to 3:30 p.m.

Microsoft Teams
Meeting ID: 225 091 018 909
Passcode: hVKapN

January 17, 2025
1:30 to 2:30 p.m.

Microsoft Teams
Meeting ID: 260 724 672 894
Passcode: bWFD4e

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 441—Chapter 67:

CHAPTER 67
SPECIAL SUPPLEMENTAL NUTRITION PROGRAM
FOR WOMEN, INFANTS, AND CHILDREN (WIC)

441—67.1(135) Definitions. Definitions can be found in 7 CFR Part 246 (as amended to August 1, 2024) and state-specific definitions can be found in Iowa WIC policies and procedures. Iowa WIC policies and procedures describe the manner in which the department implements and operates all aspects of program administration within its jurisdiction in accordance with 7 CFR Part 246 (as amended to August 1, 2024), United States Department of Agriculture (USDA) policy memorandums, USDA guidance documents, and any other documents issued by USDA to implement the WIC program.

441—67.2(135) Administration of program. The department implements the WIC program by following guidance from 7 CFR Part 246 (as amended to August 1, 2024), USDA policy memos, USDA guidance documents, and any other documents issued by USDA to implement the WIC program.

441—67.3(135) Certification of participants. Eligibility will be determined pursuant to 7 CFR Section 246.7 (as amended to August 1, 2024), any USDA-issued documents used to implement the WIC program, and the WIC Policy and Procedure Manual (as amended to August 1, 2024).

441—67.4(135) Food delivery.

67.4(1) Responsibilities of department—approving or denying applications. The department will determine if applications meet mandatory specifications and may deny an application pursuant to 7 CFR Part 246 (as amended to August 1, 2024), USDA federal regulations, USDA guidance documents, or the Iowa WIC Program Vendor Guidance (as amended to August 1, 2024), Iowa WIC Program Vendor Application (as amended to August 1, 2024), and the Iowa WIC Program Vendor Handbook and Agreement (as amended to August 1, 2024).

67.4(2) Responsibilities of WIC vendors.

a. A potential vendor shall make application to the department's WIC program and shall accept the obligations imposed by the signing of the Iowa WIC Program Vendor Agreement and Handbook (as amended to August 1, 2024) prior to acceptance of any WIC food instrument. To qualify as a WIC vendor, the vendor shall meet all of the criteria outlined in the Iowa WIC Program Vendor Guidance (as

amended to August 1, 2024), Iowa WIC Program Vendor Application (as amended to August 1, 2024), and Iowa WIC Program Vendor Agreement and Handbook (as amended to August 1, 2024).

b. The vendor must agree to adhere to all provisions of the Iowa WIC Program Vendor Application (as amended to August 1, 2024), Iowa WIC Program Vendor Agreement and Handbook (as amended to August 1, 2024), and Iowa WIC Program Vendor Guidance (as amended to August 1, 2024).

67.4(3) *Criteria for approving products for inclusion in the WIC food package.*

a. A product shall meet the federal regulations governing the WIC food package.

b. If a vendor offers specialty eggs for retail sale, the vendor shall maintain an inventory of conventional eggs for retail sale sufficient to meet federal and state requirements for participation in the WIC program.

c. Products will be evaluated for use in the Iowa WIC program based on nutrient content, packaging, container size, labeling, availability to wholesale distributors, cost, and participant preference. The state reserves the right to limit the number of foods, infant formulas, exempt infant formulas, and WIC-eligible nutritionals for the WIC-approved food list based on accessibility, availability, retail value of product, USDA recommendations, increased number of WIC participants, changes in appropriation of funds and administrative efficiency.

d. The approved food list provides more specifics on what is allowed or not allowed for each of the WIC-approved foods.

e. In addition to the criteria specified above, the department reserves the right to make changes to the criteria or further restrict the number and types of brands of any products in order to contain the cost of the food package through competitive procurement of rebate contracts or other similar means.

f. The department reserves the right to discontinue specific brand names and products if the cost is administratively burdensome for that particular product.

g. The department reserves the right to add or delete products pursuant to federal regulations.

441—67.5(135) Education.

67.5(1) Participants who are high risk, as defined in the Iowa WIC Policy and Procedure Manual (as amended to August 1, 2024) shall be seen by a licensed dietitian as described in the Iowa WIC Policy and Procedure Manual (as amended to August 1, 2024) with a care plan developed as described in the Iowa WIC Policy and Procedure Manual (as amended to August 1, 2024).

67.5(2) To the extent that time and resources are available, nutrition education may be provided to applicants who are not eligible to receive other WIC services.

441—67.6(135) Right to appeal—participant. Fair hearings and appeals are provided pursuant to 441—Chapter 7 and 7 CFR Section 246.9 (as amended to August 1, 2024).

441—67.7(135) Right to appeal—local agencies. Fair hearings and appeals are provided pursuant to 441—Chapter 7, 7 CFR Section 246.18 (as amended to August 1, 2024), and 7 CFR Section 246.24 (as amended to August 1, 2024).

441—67.8(135) Right to appeal—vendor. Fair hearings and appeals are provided pursuant to 441—Chapter 7, 7 CFR Section 246.12 (as amended to August 1, 2024), and 7 CFR Section 246.18 (as amended to August 1, 2024).

441—67.9(135) State monitoring of contract agencies. At minimum, one of the persons from the department responsible for reviewing a contract agency shall be a licensed dietitian.

441—67.10(135) Civil rights. The Iowa WIC program shall operate in compliance with state and federal regulations and FNS Instruction 113-1 (as amended to August 1, 2024) to ensure the rights of all individuals under the WIC program.

441—67.11(135) WIC program violation. Participants or vendors are subject to the sanctions outlined below if determined by contract agency or department staff to be guilty of abusing the WIC program or its regulations.

67.11(1) Participant violation. Violations may be reported by contract agency staff, vendors, the public, FNS staff, or department staff. All suspected cases of fraud will be investigated by the department. All sanctions will be administered by the department. Contract agencies will be notified of any actions taken against WIC participants by the department.

a. Whenever possible, the participant is contacted via telephone concerning the violation. Documentation is maintained according to procedures set forth in the Iowa WIC Policy and Procedure Manual (as amended to August 1, 2024).

b. Participants who violate WIC program regulations are subject to sanction in accordance with the schedule below:

Violation	Sanction Action
1. Intentional false statement(s) or misrepresentation of income, name, residence, family size (including receiving and using benefits for children no longer in the family), medical data, pregnancy, and/or date of birth to obtain WIC benefits.	One-year disqualification and pay full restitution
2. Return of WIC foods to vendor for unapproved food items, nonfood items, credit or cash (attempted or actual). Claim amount less than \$100. Buy, trade, exchange, transfer, sell, or offer to buy, trade, exchange, transfer, sell, or allow any other person to buy, trade, exchange, transfer, sell or offer to buy, trade, exchange, transfer or sell eWIC card/benefits for unapproved food items, nonfood items, cash or favors. Claim amount less than \$100.	Two-month disqualification and pay full restitution Subsequent violation of any claim amount: one-year disqualification and pay full restitution
3. Return of WIC foods to vendor for unapproved food items, nonfood items, credit or cash (attempted or actual). Claim amount greater than \$100. Buy, trade, exchange, transfer, sell, or offer to buy, trade, exchange, transfer, sell or allow any other person to buy, trade, exchange, transfer, sell or offer to buy, trade, exchange, transfer, or sell WIC foods for unapproved food items, nonfood items, cash or favors. Claim amount greater than \$100.	One-year disqualification and pay full restitution
4. Creating a public nuisance or disrupting normal activities through verbal misconduct or physical disruptions at the local WIC agency, farmers market, or vendor location.	First violation: Education/counseling Second subsequent violation: Warning letter Third subsequent violation: Two-month disqualification Fourth subsequent violation: Any subsequent violation(s) will result in a one-year disqualification.
5. Verbal abuse or harassment of WIC staff, vendors, farmers market vendors and/or other WIC participants. This includes verbal abuse or harassment in person, on social media, or over the telephone.	Two-month disqualification Subsequent violation will result in a one-year disqualification.
6. Physical abuse (directly or indirectly carrying out the actual harm or threatening to do harm) of WIC staff, vendors, vendor staff, farmers market vendors, farmers market vendor staff, and/or other WIC participants.	Any violation will result in a one-year disqualification.
7. Destruction of property, theft of eWIC card(s) or theft from a local WIC agency, vendor, vendor staff, farmers market vendor, farmers market vendor staff, and/or another WIC participant.	Any violation will result in a one-year disqualification.
8. Collusion with staff to improperly obtain benefits.	One-year disqualification and pay full restitution
9. Dual participation resulting from intentional misrepresentation.	One-year disqualification and pay full restitution
10. Trafficking WIC food benefits, WIC benefits, or WIC items and/or collusion with an authorized vendor.	One-year disqualification and pay full restitution

11. Other violations of this chapter or the Iowa WIC Policy and Procedure Manual (as amended to August 1, 2024). As appropriate per this chapter or the Iowa WIC Policy and Procedure Manual (as amended to August 1, 2024).
- c. Local law enforcement may be notified in appropriate cases.
 - d. Fifteen days' notice must be given prior to all disqualifications. In all cases, the participant must be informed of the reason for the disqualification, of the right to appeal the decision through the fair hearing process, and of eligibility to receive WIC services at the end of the disqualification period.
 - e. A disqualification may apply to all members of a family who are on the WIC program.
 - f. Violations are cumulative. However, a participant will not have sanctions assessed for committing a second violation when the second violation occurs before the participant receives notice of the first violation and the second violation is the same as the first. A participant who commits the same violation a second time following receipt of a notice for the first violation is subject to a one-year disqualification.
 - g. When a participant improperly received benefits as a result of intentionally making a false or misleading statement(s) or intentionally misrepresenting, concealing, or withholding facts or sells or attempts to sell benefits the participant received from the WIC program and is disqualified from the WIC program, the participant may be required to make restitution of the cash value of the improperly received or used WIC benefits. The department may establish a claim against the participant for the full value of the improperly received benefits.
The department will issue a written notice of restitution and disqualification.
If the participant chooses a repayment plan for claims, the department will assist in developing a payment schedule. If the participant has not paid the department directly within 30 days of the notice of restitution and disqualification, the department will pursue collection of the dollar amount owed and benefits will be discontinued until the claim is paid.
 - h. The department may decide not to impose a mandatory disqualification pursuant to 7 CFR Section 246.12(u)(2) (as amended to August 1, 2024). All decisions are at the discretion of the department.
 - i. When a disqualification period has ended, the individual disqualified may be reinstated if the individual's certification period is still current. If the individual's certification period is not current, the individual will need to complete a certification appointment.
 - j. The department will maintain a master list of all participant violation notices, disqualifications, and statements of restitution. The participant's notice of violation must also indicate when it is a second offense.

67.11(2) Vendor violations. There are five types of sanctions that are applied to vendors for violations of WIC program regulations: nonpayment of food instruments, issuance of violation points, temporary disqualification, permanent disqualification, and civil money penalties (CMPs).

a. Nonpayment of food instruments. If the vendor has been terminated from the WIC program and submits a claim, it will be fully denied.

b. Administrative and procedural violation points. Administrative and procedural violations are offenses to the provisions of the Iowa WIC Vendor Agreement and Handbook (as amended to August 1, 2024) that do not rise to the level of fraud against the WIC program or its participants.

These violations are an indication of a vendor's inattention to or disregard of the requirements of the WIC vendor agreement. It is in the department's interest to record and consider these violations when considering whether to continue its contractual relationship with the vendor.

One or more transactions prior to notification of the vendor constitute only one violation if they contain the same error.

The assignment of violation points does not limit the department's right to effect stronger penalties and sanctions in cases in which there is evidence of an intentional or systematic practice of abusing or defrauding the Iowa WIC program.

Violation

Points Per Event

1. Developing and using promotional materials including stickers, tags, labels, or channel strips with the WIC service mark to identify WIC-approved foods.

5

Violation	Points Per Event
2. Developing and using vendor-created WIC vendor identification decals to indicate vendor is an authorized vendor.	5
3. Failure to allow WIC participants to leave the vendor with WIC foods that were debited/ removed from their eWIC account during a WIC transaction.	5
4. Failure to post eWIC signs in the cash register lane that has a working WIC terminal if the vendor is not integrated.	5
5. Failure to provide vendor ECR system participant receipts to WIC participants during each WIC transaction.	5
6. Failure to reimburse department for potentially overpaid food instrument or provide reasonable explanation for the cost of the food instrument.	10
7. Refusal to accept valid WIC food instruments from participants.	10
8. Discriminatory treatment of WIC participants, such as requiring WIC participants to use special checkout lanes or provide extra identification, or disallowing the use of coupons or other vendor discounts in WIC transactions that are allowed in non-WIC transactions.	10
9. Treating WIC customers differently by offering them incentive items, vendor discounts, coupons, or other promotions that are not offered to non-WIC customers.	10
10. Providing to WIC participants incentive items not prior authorized by the department.	10
11. Failure to carry out corrective action plan developed as a result of monitoring visit.	10
12. Accepting the return of food purchased with WIC food instruments for cash or credit toward other purchases.	10
13. Issuing "rain checks" or credit in exchange for WIC food instruments.	10
14. Stocking out-of-date, stale, or moldy WIC foods.	10
15. Failure to submit vendor price assessment reports as requested.	10
16. Failure to train all employees and ensure their knowledge regarding WIC program procedures set forth in the vendor's current agreement and in the current publication of the Iowa WIC program's vendor instruction booklet.	10
17. Requiring WIC participants to purchase a particular brand when other WIC-approved brands are available.	10
18. Not allowing WIC participants to use discount coupons or promotional specials to reduce the WIC food instrument amount.	10
19. Requiring to enter the PIN for the participant and/or asking for the participant's PIN.	10
20. For vendors that have special WIC prices, failure to post WIC prices on the shelf or on the package.	15
21. Contacting WIC participants in an attempt to recover funds not paid by WIC.	15
22. Providing false information on the price assessment report.	15
23. Knowingly entering false information or altering information on the eWIC receipt/ benefits.	10
24. Requiring other cash purchases to redeem WIC food instruments.	15
25. Failure to obtain infant and/or special needs formula from an approved source listed by the Iowa WIC program.	15
26. Offering incentive items with a value of more than \$1.99.	15
27. Scanning any UPC code that is not affixed to the actual item being purchased by the WIC participant.	20
28. Failure to allow purchase of up to the full amount of WIC foods authorized on the food instrument if such foods are available and desired by the WIC participant.	20
29. Failure to maintain minimum stocking requirements.	10
30. Other violations of this chapter or the Iowa WIC Program Vendor Agreement and Handbook or the Iowa WIC Policy and Procedure Manual (as amended to August 1, 2024).	As appropriate per this chapter, the Iowa WIC Program Vendor Agreement and Handout or the Iowa WIC Policy and Procedure Manual (as amended to August 1, 2024)

c. One-year disqualification. With an administrative finding of the following patterns of sanctions, the vendor will be disqualified for one year:

(1) A pattern of allowing purchase of nonapproved food items in exchange for WIC food instruments or for foods provided in excess of those listed on the WIC food instrument. (federally mandated sanction)

(2) Accumulation of 45 or more violations points within a single federal fiscal year of the agreement period. (department sanction)

(3) Failure to provide access to vendor premises or in any manner to hinder, impede or misinform authorized WIC personnel in the act of conducting an on-site education, monitoring or investigation visit. (department sanction)

(4) Loss of department of inspections, appeals, and licensing license. (department sanction)

(5) Submitting for payment a WIC food instrument redeemed by another authorized vendor. (department sanction)

(6) Threatening or verbally abusing WIC participants or authorized WIC program personnel in the conduct of legitimate WIC program transactions. (department sanction)

(7) Submitting for payment WIC food instruments known by the vendor to have been lost or stolen. (department sanction)

(8) Participating with other individuals, including but not limited to WIC employees, vendors, and participants, in systematic efforts to submit false claims for reimbursement of improper WIC food instrument. (department sanction)

d. A vendor will be disqualified from being a WIC vendor for three years with an administrative finding of any violation detailed in 7 CFR Section 246.12(l)(iii) (as amended to August 1, 2024).

e. A vendor will be disqualified from being a WIC vendor for six years pursuant to 7 CFR Section 246.12(l)(1)(ii) (as amended to August 1, 2024).

f. The department will impose mandatory vendor sanctions pursuant to 7 CFR Section 246.12(l)(1)(i) (as amended to August 1, 2024).

g. The following does not have a point value, but shall result in or extend a disqualification period:

For each month in which a vendor accepts WIC food instruments during a disqualification period, the disqualification period shall be extended by 30 days.

h. The above sanctions notwithstanding, the state of Iowa reserves the right to seek civil and criminal prosecution of WIC vendors for any and all instances of dealing in stolen or lost food instruments, trading cash and other inappropriate commodities for food instruments, or cases in which there exists evidence of a clear business practice to improperly obtain WIC funds, or other practices meeting the definition of fraud as defined in 7 CFR Part 246 (as amended to August 1, 2024) or the Iowa Code.

i. A vendor shall not be entitled to receive any compensation for revenues lost as a result of any temporary or permanent disqualification.

j. A minimum of 15 days' notice is provided prior to all disqualifications, except for permanent disqualifications assessed under paragraph 73.19(2) "f," which are effective on the date of receipt of the notice of administrative action. When the department determines that an offense has occurred, a disqualification letter with supporting documentation is prepared for the WIC director's signature. The disqualification letter identifies the specific offenses that the vendor is charged with and the procedures for filing an appeal. Voluntary withdrawal from the Iowa WIC Program Vendor Agreement and Handbook to avoid a sanction is not allowed.

k. The department is responsible for issuing all warning and disqualification letters. Contract agencies are informed of all vendor correspondence regarding violations. In situations where participant violations are also involved, the contract agency is responsible for follow-up, as detailed in subrule 73.19(1).

l. Disqualification from the WIC program may result in disqualification as a retailer in SNAP pursuant to 7 CFR Section 246.12(h)(3)(xxvi) (as amended to August 1, 2024), 7 CFR Section 246.18(b)(1) (as amended to August 1, 2024), and 7 CFR Section 246.12(l)(1)(xi) (as amended to August 1, 2024).

m. The department will disqualify a vendor who has been disqualified from SNAP pursuant to 7 CFR Section 246.12(l)(1)(vii) (as amended to August 1, 2024) and 7 CFR Section 246.12(l)(1)(ix) (as amended to August 1, 2024).

n. CMPs.

(1) When the department determines that a CMP shall be imposed in lieu of disqualification for reasons specified under paragraph 73.19(2) “*f*” or “*m*,” it shall use the civil money penalty formula in accordance with 7 CFR Section 246.12(k)(1)(x) (as amended to August 1, 2024) to determine the CMP.

(2) If a vendor does not pay, only partially pays, or fails to timely pay a CMP, the department will disqualify the vendor for the length of the disqualification corresponding to the violation for which the CMP was assessed. “Failure to timely pay a CMP” includes the failure to pay a CMP in accordance with an installment plan approved by the department.

(3) Money received by the state WIC agency as a result of CMPs or fines assessed against a vendor and any interest charged in the collection of these penalties and fines shall be considered as WIC program income.

These rules are intended to implement 42 U.S.C. Section 1786 and Iowa Code section 234.6(1).

ARC 8514C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to child care centers and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 109, “Child Care Centers,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 237A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 237A and 45 CFR Part 98.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded and adopted new as a part of the Red Tape Review process laid out by Executive Order 10. This chapter assigns the minimum health, safety, and training requirements for licensed child care centers. This chapter aligns federal and state regulation with practical application of health and safety. The Department’s licensing and regulatory staff utilize this chapter to inspect child care facilities and hold the facilities accountable to minimum standards. Standards are aligned to checklist and inspection reports.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.304.0963
Email: joe.campos@hhs.iowa.gov

Public Hearing

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

January 14, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN
January 17, 2025 1:30 to 2:30 p.m.	Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 109 and adopt the following **new** chapter in lieu thereof:

CHAPTER 109
CHILD CARE CENTERS

441—109.1(237A) Definitions.

“*Adult*” means a person 18 years of age or older.

“*Child*” means the same as defined in Iowa Code section 237A.1.

“*Child care*” means the same as defined in Iowa Code section 237A.1.

“Child care center” or *“center”* means the same as defined in Iowa Code section 237A.1. For the purposes of this chapter, the word “center” applies to a child care center or preschool unless otherwise specified.

“Child care facility” or *“facility”* means the same as defined in Iowa Code section 237A.1.

“Coaching” means a relationship-based process led by an expert to build capacity for specific professional dispositions, skills and behaviors and is focused on performance-based outcomes.

“Education” means formal coursework offered through a state-approved accredited secondary school, college or university.

“Facility” means a building or physical plant established for the purpose of providing child day care.

“Get-well center” means a facility that cares for a child with an acute illness of short duration for short enrollment periods.

“Involvement with child care” means the same as defined in Iowa Code section 237A.1.

“Parent” means parent or legal guardian.

“Person subject to an evaluation” means the same as defined in Iowa Code section 237A.5.

“Preschool” means the same as defined in Iowa Code section 237A.1.

“Professional development” means a continuum of learning activities designed to prepare and support individuals for work with children and families, including coaching, education, and training.

“Regulatory fee” means the amount payable to the department for licensure of a child care center based on the capacity of the center.

“Requesting entity” means an entity covered by these rules that is requesting an evaluation to determine if the person being evaluated can have involvement with child care. The requesting entity must be a child care facility as defined in Iowa Code section 237A.1.

“Serious injury” means the same as defined in Iowa Code section 702.18.

“Training” means a learning experience that addresses a specific topic of professional relevance that builds or enhances knowledge.

“Transgression” means the same as defined in Iowa Code section 237A.5.

441—109.2(237A) Licensure procedures.

109.2(1) Application for license.

a. Any adult or agency has the right to apply for a license. The application for a license must be made to the department on a department-provided application for a license to operate a child care center.

b. Requested reports, including the fire marshal’s report and other information relevant to the licensing determination, will be furnished to the department upon application and renewal.

c. A center must submit all required fingerprints to the department of public safety before the issuance or renewal of the center’s license.

d. When a center makes a sufficient application for an initial license, the center may operate for a period of up to 120 calendar days from the date of issuance of the form granting permission to open without a license, pending a final licensing decision. A center has made a sufficient application when it has had an on-site visit and has submitted the following to the department:

(1) An application for a license.

(2) An approved fire marshal’s report.

(3) A floor plan indicating room descriptions and dimensions, including location of windows and doors.

(4) Information sufficient to determine that the center director meets minimum personnel qualifications.

e. Applicants must submit the regulatory fee as specified in subrule 109.2(5) to the department.

f. Applicants must be notified of approval or denial of initial applications within 120 days from the date the application is submitted.

(1) If the applicant has been issued a form granting permission to open without a license, the applicant must be notified of approval or denial within 120 calendar days of the date of issuance of the form.

(2) No full or provisional license will be issued before payment of the applicable regulatory fee as determined pursuant to subrule 109.2(5).

g. The department will not act on a licensing application for 12 months after an applicant's child care center license has been denied or revoked.

h. When the department has denied or revoked a license, the applicant or person is prohibited from involvement with child care unless the department specifically permits involvement through a record check decision.

109.2(2) License.

a. An applicant showing compliance with center licensing laws and these rules, including department approval of center plans and procedures and submission of the regulatory fee as specified in subrule 109.2(5) to the department by the date due, shall be issued a license for 24 months. In determining whether or not a center is in compliance with the intent of a licensing standard outlined in this chapter, the department will make the final decision.

b. A new license must be applied for when the center moves, expands, or the facility is remodeled to change licensed capacity.

c. A new license must be applied for when another adult or agency assumes ownership or legal responsibility for the center.

d. A provisional license may be issued or reduced pursuant to Iowa Code section 237A.2.

109.2(3) Denial. Initial applications or renewals will be denied when:

a. The center does not comply with center licensing laws and these rules in order to qualify for a full or provisional license.

b. The center is operating in a manner that the department determines impairs the safety, health, or well-being of children in care.

c. A person subject to an evaluation has transgressions that merit prohibition of involvement with child care and of licensure, as determined by the department.

d. Information provided either orally or in writing to the department or contained in the center's files is shown to have been falsified by the provider or with the provider's knowledge.

e. The center is not able to obtain an approved fire marshal's certificate as prescribed by the state fire marshal or fails to comply in correcting or repairing any deficiencies in the time determined by the fire marshal or the fire marshal determines the facility is not safe for occupancy.

f. The regulatory fee as specified in subrule 109.2(5) is not received by the department within 60 calendar days from the due date on the invoice.

109.2(4) Revocation and suspension. A license will be revoked or suspended if corrective action has not been taken when:

a. The center does not comply with center licensing laws or these rules.

b. The center is operating in a manner that the department determines impairs the safety, health, or well-being of the children in care.

c. A person subject to an evaluation has transgressions that merit prohibition of involvement with child care and of licensure, as determined by the department.

d. Information provided to the department or contained in the center's files is shown to have been falsified by the provider or with the provider's knowledge.

e. The facility is not able to obtain an approved fire marshal's certificate as prescribed by the state fire marshal, fails to comply in correcting or repairing any deficiencies in the time determined by the fire marshal or the fire marshal determines the facility is not safe for occupancy.

f. The regulatory fee as specified in subrule 109.2(5) is not paid in full due to insufficient funds to cover a check submitted to the department for the fee.

109.2(5) Regulatory fees. A fee based upon center capacity is due to the department at the time of issuance of the license in accordance with this subrule.

a. *Fee structure.* The amount of the fee is based on the capacity of the center as indicated below:

<u>Center Capacity</u>	<u>Fee Amount</u>
0 to 20 children	\$50

21 to 50 children	\$75
51 to 100 children	\$100
101 to 150 children	\$125
151 or more children	\$150

b. Determination of capacity. The licensing consultant must determine center capacity by dividing the amount of usable space by the amount of space required per child as specified in subrule 109.11(1). Upon approval by the department, the final determination of center capacity may include evaluation of other factors that influence capacity, as long as physical space requirements per child as defined in subrule 109.11(1) are maintained.

c. Notification. Upon final determination of center capacity by the licensing consultant, the licensing consultant or designee must sign and provide the child care center licensing fee invoice to the center.

d. Payment. The center must return the child care center licensing fee invoice to the department with the licensing fee payment within 60 calendar days from the date on the invoice. Regulatory fees are nonrefundable and nontransferable.

109.2(6) Adverse actions.

a. Notice of adverse actions for a denial, revocation, or suspension and the right to appeal the licensing decision will be given to applicants and licensees in accordance with 441—Chapter 7 and 441—subrule 16.2(3).

b. A letter received by an owner or director of a licensed center initiating action to deny, suspend, or revoke the facility's license must be conspicuously posted at the main entrance to the facility. The letter will remain posted until resolution of the action to deny, suspend, or revoke the license. If the action to deny, suspend, or revoke is upheld, the center must return the license to the department.

c. If the center's license is denied, suspended, or revoked, the department will notify the parent, guardian, or legal custodian of each child for whom the facility provides child care.

d. The center must cooperate with the department in providing the names and addresses of the parent, guardian, or legal custodian of each child for whom the facility provides child care.

441—109.3(237A) Inspection and evaluation. The department will conduct an unannounced on-site visit in order to make a licensing recommendation for all initial and renewal applications for licensure and will determine compliance with licensing standards imposed by licensing laws and these rules when a valid complaint is received.

109.3(1) At least one unannounced on-site visit will be conducted each calendar year.

109.3(2) After each visit and valid complaint, the department will document whether a center was in compliance with center licensing standards imposed by licensing laws and these rules.

109.3(3) The written documentation of the department's conclusion as to whether a center was in compliance with licensing standards for all licensing visits and valid complaints will be available to the public. However, the identity of the complainant will be withheld unless expressly waived by the complainant.

441—109.4(237A) Administration.

109.4(1) Required written policies. The child care center owner, board or director shall:

a. Develop and implement policies for enrollment and discharge of children, field trips and noncenter activities, discipline/behavior, nutrition, health and safety policies and, if transporting children, transportation policy.

b. Develop a curriculum or program structure that uses developmentally appropriate practices and an activity program appropriate to the developmental level and needs of the children.

c. Develop and implement a written plan for staff orientation to the center's policies and to the provisions of this chapter.

d. Make available for review a copy of the center policies and programs to all staff at the time of employment and each parent at the time a child is admitted to the center. A copy of the fee policies and financial agreements shall be provided to each parent at the time a child is admitted to the center.

e. When serving children under the age of three, develop and implement a policy for responding to incidents of biting.

f. Develop and implement a policy to ensure that people do not have unauthorized access to children at the center.

g. Develop and implement a policy for protection of each child's confidentiality.

h. Develop and implement procedures for medical and dental emergencies, and ensure through orientation and training that all staff are knowledgeable of and able to implement the procedures.

109.4(2) Required postings. The following postings must be conspicuously posted in an area frequented by parents or the public:

a. Certificate of license at the main entrance of the center.

b. Notice of exposure of children to a communicable disease. The notice of exposure of children to a communicable disease will include the symptoms and the period of communicability.

c. Notice of decision to deny, suspend, or revoke the center's license or reduce the center's license to a provisional status, if applicable.

d. Mandatory reporter requirements.

e. Notice of availability of the handbook "Child Care Centers and Preschools Licensing Standards and Procedures (August 1, 2024)."

f. Name and contact information of the department's child care licensing consultant.

g. Program activities and menu.

109.4(3) Mandatory reporters. Methods of identifying and reporting suspected child abuse and neglect shall be discussed with all staff within 30 days of employment.

441—109.5(237A) Parental participation. Parents must be afforded unlimited access to their children and to the provider caring for their children during the center's hours of operation or whenever their children are in the care of a provider unless parental contact is prohibited by court order. The provider will inform all parents of this policy in writing at the time the child is admitted to the center.

441—109.6(237A) Personnel. The director of the center must develop policies for hiring and maintaining staff that demonstrate competence in working with children and that meet the following minimum requirements:

109.6(1) Center director requirements. Centers that have multiple sites must have a center director or on-site supervisor in each center. The center director is responsible for the overall functions of the center, including supervising staff, designing curriculum and program administration. The director must ensure services are provided for the children within the framework of the licensing requirements. The center director must have overall responsibility for carrying out the program and ensuring the safety and protection of the children. The following minimum qualifications must be submitted to the child care consultant for final approval prior to the start of employment. The center director:

a. Is at least 21 years of age.

b. Has obtained a high school diploma or passed a general education development test.

c. Has completed at least one course in business administration or 12 contact hours in administrative-related training related to personnel, supervision, recordkeeping, or budgeting, or has one year of administrative-related experience.

d. Has certification in infant, child, and adult cardiopulmonary resuscitation (CPR); infant, child, and adult first aid; and Iowa's training for the mandatory reporting of child abuse.

e. Has achieved a total of 100 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart:

EDUCATION		EXPERIENCE (Points multiplied by years of experience)		CHILD DEVELOPMENT- RELATED TRAINING
Bachelor's or higher degree in early childhood, child development, or elementary education	75	Full-time (20 hours or more per week) in a child care center or preschool setting	25	One point per contact hour of training
Associate's degree in child development or bachelor's degree in a child-related field	60	Part-time (less than 20 hours per week) in a child care center or preschool setting	10	
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	45	Full-time (20 hours or more per week) child development-related experience	10	
Bachelor's or higher degree in a non-child-related field	40	Part-time (less than 20 hours per week) child development-related experience	5	
Associate's degree in a non-child-related field or completion of at least two years of a four-year degree	25	Registered child development home provider	10	
		Nonregistered family home provider	5	

(1) In obtaining the total of 100 points, a minimum of two categories must be used, no more than 75 points may be achieved in any one category, and at least 20 points shall be obtained from the experience category.

(2) Points obtained in the child development-related training category must have been taken within the past five years.

(3) For directors in centers predominantly serving children with special needs, the directors may substitute a disabilities-related or nursing degree for the bachelor's degree in early childhood, child development or elementary education in determining point totals. In addition, experience in working with children with special needs in an administrative or direct care capacity must be equivalent to full-time experience in a child care center or preschool in determining point totals.

109.6(2) On-site supervisor. The on-site supervisor is required to be present when the program has multiple sites or when a director is not routinely present for six hours daily. The center director must identify a person in charge during the on-site supervisor's absence. The on-site supervisor is responsible for the daily supervision of the center and must be on site daily either during the hours of operation that children are present or a minimum of six hours of the center's hours of operation. The following minimum qualifications will be submitted to the child care consultant for final approval prior to the start of employment. The on-site supervisor:

- Is at least 18 years of age.
- Has obtained a high school diploma or passed a general education development test.
- Has certification in infant, child, and adult CPR; infant, child, and adult first aid; and Iowa's mandatory reporting of child abuse.

d. Has achieved a total of 75 points obtained through a combination of education, experience, and child development-related training as outlined in the chart and calculation described in subrule 109.6(1). A minimum of two categories must be used, no more than 50 points may be achieved in any one category, and at least 10 points must be obtained from the experience category.

109.6(3) Volunteers. A volunteer must be at least 16 years of age. All volunteers shall:

- Sign a statement indicating whether or not they have one of the following:
 - A conviction of any law in any state or any record of founded child abuse or dependent adult abuse in any state.
 - A communicable disease or other health concern that could pose a threat to the health, safety, or well-being of the children.
- Sign a statement indicating the volunteer has been informed of the volunteer's responsibilities as a mandatory reporter.

- c. Undergo the record check process when any of the following criteria are met:
 - (1) The volunteer is included in meeting the required child-to-staff ratio;
 - (2) The volunteer has direct responsibility for a child or children; or
 - (3) The volunteer has access to a child or children with no other staff present.
- d. Have on file at the facility a record containing the statements required in paragraphs 109.6(3) “a” and “b” and documentation of any record check process. The record must be maintained as required in paragraph 109.9(1) “a.”

109.6(4) Record checks.

a. *Criminal and child abuse record checks.* Criminal and child abuse record checks shall be conducted for:

- (1) Each owner, director, staff member, volunteer, or subcontracted staff person with direct responsibility for child care or with access to a child when the child is alone;
- (2) Anyone living in the child care facility who is 14 years of age or older.

b. *Authorization.* A requesting entity shall request a record check evaluation prior to the employment of a person subject to record checks. The person subject to record checks shall complete the department’s criminal history record check form and any other forms required by the department of public safety to authorize the release of records.

c. *Iowa records checks.* Checks and evaluations of Iowa child abuse and criminal records, including the sex offender registry, must be completed before the person’s involvement with child care at the center. Iowa records checks must be repeated at a minimum of every two years and when the department or the center becomes aware of any possible transgressions. The department is not responsible for the cost of conducting the Iowa records check.

(1) The child care center may access the single-contact repository (SING) as necessary to conduct a criminal and child abuse record check of the person in Iowa. If the results of the check indicate a potential transgression, the center will send a copy of the results to the department for determination of whether or not the person may be involved with child care, regardless of the person’s status with the center.

(2) Unless a record check has already been conducted in accordance with subparagraph 109.6(4) “c”(1), the department must conduct a criminal and child abuse record check in Iowa for a person who is subject to a record check. The department may access SING to conduct the record check. The department may also conduct dependent adult abuse, sex offender, and other public or civil offense record checks in Iowa for a person who is subject to a record check.

d. *National criminal history checks.* National criminal history checks based on fingerprints are required for all persons subject to record checks. The national criminal history check must be repeated for each person every four years and when the department or center becomes aware of any new transgressions committed by that person in another state. The department is not responsible for the cost of conducting the national criminal history check.

(1) The child care center is responsible for obtaining the fingerprints of all persons subject to record checks.

(2) If the results of the Iowa records checks do not warrant prohibition of the person’s involvement with child care or otherwise present protective concerns, the person may be involved with child care on a provisional basis until the national criminal history check and evaluation have been completed.

(3) The child care center will provide fingerprints to the department of public safety prior to a person’s involvement with child care at the center. The center will submit the fingerprints on forms or in a manner allowed by the department of public safety.

(4) Centers that are required to submit fingerprint-based checks of the FBI national criminal database to comply with federal regulations may seek a waiver to substitute that record check for the procedure required in this subrule. Requests for a waiver must be submitted on a form prescribed by the department to the address listed on the form.

(5) A center considering involvement of a person who has had a national criminal history check at another center may request information from that center. That center may provide that information in writing upon a center’s request, using a form prescribed by the department. If the person being

considered for employment has not had involvement with child care in the past six months, a new national criminal history check must be completed.

(6) If the results of the national criminal history check indicate that the person has committed a transgression, the center, if interested in continuing the person's involvement in child care, must send a copy of the results to the department for evaluation. The department will determine whether or not the person may be involved with child care.

e. Mandatory and mandatory time-limited prohibition. A person with any convictions or founded abuse reports as defined in Iowa Code section 237A.5(2) "i" is prohibited from involvement with child care.

f. Evaluation required. For all other transgressions, and as requested under paragraph 109.6(4) "e," the department will notify the requesting entity that an evaluation shall be conducted to determine whether prohibition of the person's involvement with child care is warranted.

(1) The person with the transgression must complete the record check evaluation form. The requesting entity must provide the form and any other documents to the department within ten calendar days of the date on the form. The department will use the information the person with the transgression provides on this form to assist in the evaluation. Failure of the person with the transgression to complete and the requesting entity to return this form by the specified date will result in denial or revocation of the license or denial of employment. The department will not process evaluations that are not signed by the person subject to an evaluation.

(2) The department may use information from the department's case records in performing the evaluation.

(3) The requesting entity may provide, or the department may request from the person subject to an evaluation or from the requesting entity, information to assist in performance of the evaluation.

(4) Any person or agency that might have pertinent information regarding criminal or abuse history and rehabilitation of the prospective employee may be contacted.

(5) In an evaluation, the department will consider all of the factors established in Iowa Code section 237A.5(2) "h."

(6) When a person subject to a record check has a transgression that has been determined in a previous evaluation not to warrant prohibition of the person's involvement with child care and has no subsequent transgressions, an exemption from reevaluation of the latest record check is authorized. The person may commence employment with another child care facility in accordance with the department's previous evaluation. The exemption is subject to all of the provisions established in Iowa Code section 237A.5(2) "g."

g. Evaluation decision. Within 30 days of receipt of a completed record check evaluation, the department will make a decision on the person's involvement with child care. The department has final authority in determining whether prohibition of the person's involvement with child care is warranted and in developing any conditional requirements and corrective action plan under this paragraph.

(1) The department will mail to the requesting entity and the person on whom the evaluation was completed the record check decision that explains the decision reached regarding the evaluation of the transgression.

(2) If the department determines through an evaluation of a person's transgressions that the person's prohibition of involvement with child care is warranted, the person will be prohibited from involvement with child care. The department may identify a period of time after which the person may request that another record check and evaluation be performed.

(3) The department may permit a person who is evaluated to maintain involvement with child care if the person complies with the department's conditions and corrective action plan relating to the person's involvement with child care.

(4) The department will send a letter to the employer that informs the employer whether the person subject to an evaluation has been approved or denied involvement with child care. If the person has been approved, the letter will inform the employer of any conditions and corrective action plan relating to the person's involvement with child care.

h. Notice to parents. The department will provide notification of founded child abuse committed by an owner, director, or staff member of the child care center pursuant to Iowa Code section 237A.5(2) “k.” The center must cooperate with the department in providing the names and addresses of the parents, guardians, and legal custodians of each child for whom the facility provides child care.

109.6(5) *Use of controlled substances and medications.* All owners, personnel, and volunteers must be free of the use of illegal drugs and not be under the influence of alcohol or of any prescription or nonprescription drug that could impair their ability to function.

441—109.7(237A) Professional growth and development. Professional development will supplement the educational and experience requirements in rule 441—109.6(237A) and shall enhance the staff’s skill in working with the developmental and cultural characteristics of the children served. The center director, on-site supervisor, and staff counted as part of the staff ratio must meet the following minimum staff training requirements:

109.7(1) *Required training within the first three months of employment.* During their first three months of employment, all staff must receive the following training:

- a.* Iowa’s training for mandatory reporting of child abuse.
- b.* At least one hour of training regarding universal precautions.
- c.* Certification in infant, child, and adult CPR. A valid certificate indicating the date of training and expiration date will be maintained.
- d.* Certification in infant, child, and adult first aid. A valid certificate indicating the date of training and expiration date must be maintained.
- e.* Essential child care pre-service or equivalent minimum health and safety training approved by the department in the following areas:
 - (1) Prevention and control of infectious disease, including immunizations.
 - (2) Prevention of sudden infant death syndrome and use of safe sleep practices.
 - (3) Administration of medication, consistent with standards for parental consent.
 - (4) Prevention of and response to emergencies due to food and allergic reactions.
 - (5) Building and physical-premises safety, including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic.
 - (6) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment.
 - (7) Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event.
 - (8) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants.
 - (9) Precautions in transporting children.
 - (10) Child development.

Essential child care pre-service or equivalent minimum health and safety training may be required if content has significant changes that warrant that the training be renewed.

Child care staff employed in programs that only serve children over the age of three are exempt from taking health and safety trainings under subparagraphs 109.7(1)“e”(2) and 109.7(1)“e”(6).

109.7(2) *Center directors and all staff.*

a. During their first year of employment, all center directors and all staff will receive the following training:

- (1) Ten contact hours of training from approved subject areas from the Council for Professional Recognition or approved content areas from the National Afterschool Association.
- (2) Training received for CPR, first aid, mandatory reporting of child abuse, and universal precautions shall not count toward the ten contact hours.
- (3) A provider shall not use a specific training or class to meet minimum continuing education requirements more than one time every five years.

b. Following their first year of employment, all center directors and all staff must:

- (1) Maintain current certification for Iowa’s training for the mandatory reporting of child abuse; infant, child and adult CPR; and infant, child and adult first aid.

(2) Staff must receive six contact hours of professional development annually from one or more of the subject areas under subparagraph 109.7(2)“a”(1).

(3) Center directors and on-site supervisors must receive eight contact hours of training annually from one or more approved subject areas under subparagraph 109.7(2)“a”(1).

109.7(3) *Staff employed in centers that operate summer-only programs.* During their first three months of employment, all staff shall receive the following training:

- a. Iowa’s training for mandatory reporting of child abuse.
- b. At least one hour of training regarding universal precautions.
- c. Certification in infant, child, and adult CPR. A valid certificate indicating the date of training and expiration date shall be maintained.
- d. Certification in infant, child, and adult first aid. A valid certificate indicating the date of training and expiration date shall be maintained.
- e. Essential child care pre-service or equivalent minimum health and safety training approved by the department in the following areas:
 - (1) Prevention and control of infectious disease, including immunizations.
 - (2) Prevention of sudden infant death syndrome and use of safe sleep practices.
 - (3) Administration of medication, consistent with standards for parental consent.
 - (4) Prevention of and response to emergencies due to food and allergic reactions.
 - (5) Building and physical-premises safety, including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic.
 - (6) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment.
 - (7) Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event.
 - (8) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants.
 - (9) Precautions in transporting children.
 - (10) Child development.

Child care staff employed in programs that only serve children over the age of three are exempt from taking health and safety trainings under subparagraphs 109.7(3)“e”(2) and 109.7(3)“e”(6).

109.7(4) *Substitution.* A provider who submits documentation from a child care resource and referral agency that the provider has completed the Iowa Program for Infant/Toddler Care (IA PITC) (August 1, 2024), or Early Childhood-Positive Behavior Interventions and Supports (EC-PBIS) training series (August 1, 2024) may use those hours to fulfill a maximum of two years’ professional development requirements, not including preservice, first-aid, CPR and mandatory reporter training.

109.7(5) *Approved professional development.*

- a. Professional development contact hours can be coaching, education, or training provided by a department-approved entity.
- b. Coaching contact hours may only be used to meet up to half of an individual’s annual professional development requirement.
- c. The department may randomly monitor any state-approved professional development for quality control purposes.
- d. Professional development conducted with staff during the hours of operation of the facility, during staff lunch hours, or while children are resting must not diminish the required staff ratio coverage. Staff must not be actively engaged in care and supervision and simultaneously participate in training.
- e. A professional development organization not approved by the department may submit for review to the department a request for child care training approval. All approvals unless otherwise specified shall be valid for five years. The department will issue its decision within 30 business days of receipt of a complete request.
- f. Department-approved entities must provide participants a professional development certificate for approved professional development contact hours.

109.7(6) *Professional development for supervisors and designees.* The director, on-site supervisor, and any person designated as a lead in the absence of supervisory staff must have completed all preservice/orientation training outlined in subrule 109.7(1).

441—109.8(237A) Staff ratio requirements.

109.8(1) Staff requirements. Persons counted as part of the staff ratio must meet the following requirements:

- a. Staff persons must be at least 16 years of age.
- b. Those staff persons who are under the age of 18 shall meet the following requirements:
 - (1) May not be the sole provider on the premises of a child care facility.
 - (2) Shall not provide transportation to children in care.
 - (3) If staff persons under the age of 18 are providing child care services without an adult, they shall only provide care to school-aged children.
 - (4) May be utilized for brief periods of absence as identified in paragraph 109.8(2)“g” and scheduled nap periods of children over two years of age as identified in paragraph 109.8(2)“h.”

109.8(2) Staff ratio. The staff-to-child ratio shall be as follows:

<u>Age of children</u>	<u>Minimum ratio of staff to children</u>
Two weeks to two years	One to every 4 children
Two years	One to every 7 children
Three years	One to every 10 children
Four years	One to every 12 children
Five years to ten years	One to every 15 children
Ten years and over	One to every 20 children

a. Combinations of age groupings for children four years of age and older may be allowed and may have staff ratio determined on the age of the majority of the children in the group.

b. Combinations of age groupings for children three, four, and five years of age may be allowed with a ratio of one staff member to every 12 children.

c. Children between 18 months and three years of age may be combined, if appropriate to the developmental needs of the child. If a child under two years of age is in a combined age group, the staff ratio of one to seven will be maintained. Otherwise, staff ratio may be determined by the age of the majority of the children in the group.

d. Combinations of age groupings that do not meet paragraphs 109.8(2)“a” through “c” may be approved by a child care licensing consultant when a program can show developmentally appropriate curriculum for all age groups and can provide sufficient supervision.

e. Combinations of age groupings for children five years of age and older must have a ratio consistent with the age of majority.

f. Upon the recommendation of a child’s physician or the area education agency serving the child, a child who is two years of age or older with a disability that results in significant developmental delays in physical and cognitive functioning who does not pose a threat to the safety of the infants may, if appropriate and for a limited time approved by the department, remain in the infant area.

g. Every child-occupied program room must have supervision present in the room. Brief absences of a staff member may be allowed for no more than five minutes when another staff person is present.

h. During nap time, at least one staff member must be present in every room where children are resting. Staff ratio requirements may be reduced to one staff member per room where children are resting and staff ratio coverage can be maintained in the center. The staff ratio must always be maintained for children under two years of age.

i. When more than eight children are present on the licensed premises, at least two staff members shall be present.

j. For a period of two hours or less at the beginning and end of the center’s hours of operation, one staff member may care for eight or fewer children, provided no more than four of the children are under two years of age and there are no more than eight children in the center.

k. When more than eight children are being transported in one vehicle, at least two staff members must be present, one of which is over 18 years of age.

(1) Only one adult is required when a center is transporting children in a center-owned vehicle with parent authorization for the sole purpose of transporting children to and from school.

(2) When a center contracts with another entity to provide transportation other than for the purpose of transporting children to or from school, at least one adult staff in addition to the driver must be present if at least eight children provided care by the center are transported.

l. Any child care center-sponsored program activity involving six or more children conducted away from the licensed facility shall provide a minimum of one additional staff over the required staff ratio for the protection of the children. At least one staff present on field trips must be over 18 years of age.

m. For centers serving school-age children, the ratio for school-age children may be exceeded for a period of no more than four hours during a day when school classes start late or are dismissed early or canceled due to inclement weather or structural damage provided the children are already enrolled at the center and the center does not exceed the licensed capacity.

109.8(3) *Group size.* Group size is determined in collaboration with the state fire marshal and will be assigned based on the review of health and safety requirements. Maximum capacity allowed shall be included on the certificate of license. Group sizes by age group must be included in annual inspection reports.

441—109.9(237A) Records.

109.9(1) *Personnel records.* The center will maintain personnel information sufficient to ensure that persons employed in the center meet minimum staff and training requirements and do not pose any threat to the health, safety, or well-being of the children. Each employee's file must contain, at a minimum, the following:

a. Copies of all record checks kept in accordance with state and federal law regarding confidentiality of record checks. These records shall include:

(1) A copy of a department criminal history record check form or any other permission form approved by the department of public safety for conducting an Iowa or national criminal history record check.

(2) A copy of a request for child abuse information form, when applicable.

(3) Copies of the results of Iowa record checks conducted through the SING for review by the department upon request.

(4) Copies of national criminal history check results.

(5) Any department-issued documents sent to the center related to a record check, regardless of findings.

b. A physical examination report. As required in Iowa Code section 237A.5(1), personnel shall have good health as evidenced by a preemployment physical examination. Acceptable physical examinations shall be documented on a form prescribed by the department. The examination shall be performed within six months prior to beginning employment and shall be repeated at least every three years. A physical examination may be requested if the employer has reason to believe an employee would not be able to perform a job successfully or safely due to a medical condition.

c. Documentation showing the minimum staff training requirements as outlined in rule 441—109.7(237A) are met, including current certifications in first aid and CPR and Iowa's training for the mandatory reporting of child abuse.

d. A photocopy of a valid driver's license if the staff will be involved in the transportation of children.

109.9(2) *Child's file.* Centers must maintain current and sufficient information in a file for each child that includes:

a. Child enrollment information, including name, age, date of birth, and address.

b. Parent/guardian contact information.

c. Emergency contacts and persons who can pick up the child as authorized by the parent.

d. Contact information and authorization of emergency medical and dental services.

e. Health and medical needs of a child, including any allergies or special health needs, a written emergency plan and prescribed treatment.

f. Incident reports of injuries, accidents, or other incidents, as applicable.

g. Parent authorization for a child to attend center-sponsored field trips and noncenter activities.

h. Signed and dated valid Certificate of Immunization, Certificate of Immunization Exemption, or Provisional Certificate of Immunization, provided by the department must be on file for each child enrolled as required by 641—Chapter 7.

i. For each child not yet enrolled in kindergarten, the child care center must require a physical examination submitted at enrollment but no later than within four weeks of admission. The physical should include a health history and status of present health, including allergies, medications, acute or chronic conditions, and care plan when needed. The physical should be completed and signed by the child's primary health care provider (MD, DO, chiropractor, PA, or ARNP). The date of the physical examination shall be no more than 12 months prior to the first day of admission and annually thereafter until kindergarten entry.

j. For school-aged children, the child care center must have a statement of health signed by the parent indicating the child's health status, allergies, medications, acute or chronic conditions and care plan when needed.

k. For a child who has a special health need, there must be a written care plan completed and signed by the child's primary health care provider (MD, DO, chiropractor, PA, or ARNP) or parent or guardian. The care plan should include the care needed, when the care is to be given, and any possible complications or side effects, including required interventions. Documentation of special needs provided should be in a manner similar to documentation for medication administration.

109.9(3) *Daily activities.* For each child under two years of age, the center must make a daily written record. At the end of the child's day at the center, the daily written record shall be provided verbally or in writing to the parent or the person who removes the child from the center. The record shall contain information on each of these areas:

a. The time periods in which the child has slept.

b. The amount of food consumed and the times at which the child has eaten.

c. The time of and any irregularities in the child's elimination patterns.

d. The general disposition of the child.

e. A general summary of the activities in which the child participated.

441—109.10(237A) Health and safety policies. The child care center will establish definite health policies, including the criteria for excluding a sick child from a center. The child care center may be provided guidance from the child care center's child care nurse consultant or the department regarding exclusion of an exposed child or staff during a communicable disease outbreak.

109.10(1) *Medications.* The center shall have written procedures for the dispensing, storage, authorization, and recording of all prescription medications, nonprescription medications, and nonmedicated topical products, including the following:

a. Staff must be over 18 to administer medication.

b. All medications must be stored in their original containers, with accompanying physician or pharmacist's directions and label intact and stored so the medications are inaccessible to children and the public. Nonprescription medications must be labeled with the child's name.

c. For every day an authorization for medication is in effect and the child is in attendance, there shall be a notation of administration, including the name of the medicine, date, time, dosage given or applied, and the initials of the person administering the medication or the reason the medication was not given.

d. In the case of medications that are administered on an ongoing, long-term basis, authorization must be obtained for a period not to exceed the duration of the prescription.

e. A child care staff member shall not provide medications to a child if the staff member has not completed preservice/orientation training that includes medication administration.

109.10(2) *Daily contact.* Each child shall have direct contact with a staff person upon arrival for early detection of apparent illness, communicable disease, or unusual condition or behavior that may adversely affect the child or the group.

109.10(3) *Infectious disease control.* Centers must establish policies and procedures related to infectious disease control and the use of universal precautions with the handling of any bodily fluids that include blood, bodily excrement or discharge. Soiled diapers shall be stored in containers separate from other waste. Sanitation and safety procedures for the center are developed and implemented to reduce the risk of injury or harm to children and reduce the transmission of disease.

109.10(4) *Quiet area for ill or injured.* The center will provide a quiet area under supervision for a child who appears to be ill or injured. The parents or a designated person will be notified of the child's status in the event of a serious illness or emergency.

109.10(5) *Staff hand washing.* The center must ensure that staff demonstrate clean personal hygiene sufficient to prevent or minimize the transmission of illness or disease.

109.10(6) *Children's hand washing.* The center shall ensure that staff assist children in personal hygiene sufficient to prevent or minimize the transmission of illness or disease. For each infant or child with a disability, a separate cloth for washing, one for rinsing, and one for drying may be used in place of running water.

109.10(7) *First-aid kit.* The center must ensure that a clearly labeled first-aid kit is available and easily accessible to staff at all times whenever children are in the center, in the outdoor play area, and on field trips. The kit must be sufficient to address first aid related to minor injury or trauma and stored in an area inaccessible to children.

109.10(8) *Recording incidents.*

a. Incidents involving a child, including minor injuries, minor changes in health status, or other minor behavioral concerns, shall be reported to the parents, guardians, and legal custodians on the day of the incident.

b. Incidents resulting in a serious injury, as defined in Iowa Code section 702.18, to a child in the child care facility or in the care of child care facility staff or incidents resulting in a significant change in the health status of a child must be verbally reported to the parents, guardians, and legal custodians immediately.

(1) Serious injuries must be reported to the department within 24 hours of the incident.

(2) Serious injuries must be documented and information maintained in the child's file as required by subrule 109.9(2).

c. The parents, guardians, and legal custodians of any child included in incidents involving inappropriate, sexually acting-out behavior must be notified immediately after the incident. A written report fully documenting every incident will be provided to the parent or person authorized to remove the child from the center. The written report shall be prepared by the staff member who observed the incident, and a copy will be retained in the child's file.

109.10(9) *Smoking.* Smoking and the use of tobacco products must be prohibited and nonsmoking signs must be posted pursuant to Iowa Code chapter 142D.

109.10(10) *Transportation.* Children must be transported pursuant to Iowa Code section 321.446.

109.10(11) *Field trips.* Emergency telephone numbers and emergency health plans, as applicable, for each child must be taken by staff when transporting children to and from school and on field trips and non-center-sponsored activities away from the premises.

109.10(12) *Pets.* Animals kept on site must be in good health with no evidence of disease, be of such disposition as to not pose a safety threat to children, and be maintained in a clean and sanitary manner. Documentation of current vaccinations shall be available for all cats and dogs. No ferrets; reptiles, including turtles; or birds of the parrot family can be kept on site. Pets are not allowed in the kitchen or food preparation areas.

109.10(13) *Emergency plans.*

a. The center shall have written emergency plans and diagrams for responding to fire, tornado, and flood (if area is susceptible to flood) and plans for responding to intoxicated parents and lost or abducted children. Emergency plans must include written procedures, including plans for the following:

- (1) Evacuation to safely leave the facility.
 - (2) Relocation to a common, safe location after evacuation.
 - (3) Shelter-in-place to take immediate shelter when the current location is unsafe to leave due to the emergency issue.
 - (4) Lockdown to protect children and providers from an external situation.
 - (5) Communication and reunification with parents or other adults responsible for the children that includes emergency telephone numbers.
 - (6) Continuity of operations.
 - (7) To address the needs of individual children, including those with functional or access needs.
- b. Emergency instructions; telephone numbers; and diagrams for fire, tornado, and flood (if area is susceptible to floods) must be visibly posted by all program and outdoor exits. Emergency plan procedures must be practiced and documented at least once a month for fire and for tornado. Records on the practice of fire and tornado drills must be maintained for the current and previous year.
- c. The center must develop procedures for annual staff and volunteer training on these emergency plans and include information on responding to fire, tornadoes, intruders, intoxicated parents, and lost or abducted children in the orientation provided to new employees and volunteers.
- d. The center must conduct a daily check to ensure that all exits are unobstructed.

109.10(14) *Supervision and access.*

- a. The center director and on-site supervisor must ensure that each staff member or volunteer knows the number and names of children assigned to that staff member or volunteer for care. Assigned staff and volunteers must provide careful supervision.
- b. Any person in the center who is not an owner, staff member, or volunteer who has a record check and department approval to be involved with child care must not have unrestricted access to children for whom that person is not the parent, guardian, or custodian.
- c. A parent who is a registered sex offender under Iowa Code chapter 692A cannot be present upon the property of a child care center except for the time reasonably necessary to transport the offender's own minor child or ward to and from the center. Under limited circumstances, a center director may give written permission to be on the property. Before giving written permission, the center director will consult with the center licensing consultant. The written permission must be signed and dated by the center director and the sex offender and kept on file for review by the center licensing consultant.

441—109.11(237A) Physical facilities.

109.11(1) *Room size.* The program room size must be a minimum of 80 square feet of useable floor space or sufficient floor space to provide 35 square feet of useable floor space per child. In rooms where floor space occupied by cribs is counted as useable floor space, there must be 40 square feet of floor space per child. Kitchens, bathrooms, halls, lobby areas, storage areas and other areas of the center not designed as activity space for children cannot be used as regular program space or counted as useable floor space.

109.11(2) *Play equipment, materials and furniture.*

- a. The center will provide sufficient and safe indoor play equipment, materials, and furniture that conform with the standards or recommendations of the Consumer Product Safety Commission (CPSC) (August 1, 2024) or the American Society for Testing and Materials (ASTM) (August 1, 2024) for juvenile products. Play equipment, materials, and furniture must meet the developmental, activity, and special needs of the children.
- b. Rooms must be arranged so as not to obstruct the direct observation of children by staff. Individual covered mats, beds, or cots and appropriate bedding will be provided for all children who nap. The center will develop procedures to ensure that all equipment and materials are maintained in a sanitary manner. Sufficient spacing must be maintained. The center shall provide sufficient toilet articles for each child for hand washing.

109.11(3) *Indoor facility requirements.*

- a. The center shall ensure that:

- (1) The facility and premises are sanitary, safe and hazard-free.
- (2) The facility has sufficient:
 1. Lighting.
 2. Ventilation.
 3. Heating and cooling.
- (3) Equipment placed in a program area is maintained so as not to result in injury to children.

109.11(4) Outdoor facility requirements.

a. Centers must have a safe outdoor program area adjacent to the center, with sufficient square footage to accommodate at least 30 percent of the enrollment capacity at any one time at 75 square feet per child. The outdoor area must:

- (1) Be free from litter and unsafe materials and free from contamination by the drainage or ponding of sewage or storm water.
- (2) Include safe play equipment and an area of shade.
- (3) Include fencing to protect from bodies of water and vehicular traffic.

b. The director or designated person must complete and keep a record of at least monthly inspections of the outdoor play area and equipment for the purpose of assessing and rectifying potential safety hazards. If the outdoor play area is not used for a period of time due to inclement weather conditions, the center shall document the reasons why the monthly inspection did not occur and must complete and document an inspection prior to resuming use of the area.

c. Approval may be given by the department to waive the outdoor space requirement for programs of three hours or less, provided there is suitable substitute space and equipment available.

d. Approval may be given by the department for centers operating in a densely developed area to use alternative outdoor play areas in lieu of adjacent outdoor play areas.

109.11(5) Bathroom facilities. At least one functioning toilet and one sink per 15 children two years of age and older must be provided in a room with natural or artificial ventilation. New construction after November 1, 1995, must provide for at least one sink in the same area as the toilet and, for centers serving children two weeks to two years of age, shall provide for at least one sink in the central diapering area. At least one sink must be provided in program rooms for infants and toddlers or in an adjacent area other than the kitchen. New construction after April 1, 1998, shall have at least one sink provided in the program rooms for infants and toddlers.

109.11(6) Telephone. A working nonpay telephone must be available in the center with emergency telephone numbers for police or 911, fire, ambulance, and poison control center posted in a conspicuous area. The street address and telephone number of the center must be included in the posting. A separate file or listing of emergency telephone numbers for each child shall be maintained.

109.11(7) Kitchen appliances. Gas or electric ranges or ovens shall not be placed in the program area. If kitchen appliances are maintained in the program area for food preparation activities, the area must be sectioned off and shall not be counted as useable floor space for room size.

109.11(8) Environmental hazards.

a. Within one year of being issued an initial or renewal license, centers operating in facilities built prior to 1978 shall conduct a visual assessment for lead hazards that exist in the form of peeling, cracking or chipping paint or painted surfaces in need of repair. If these lead hazards are found, it shall be assumed that lead-based paint is present on the surfaces, and the surfaces shall be repaired by an Iowa certified lead-safe renovator before a full license will be issued.

b. Within one year of being issued an initial or renewal license, centers operating in facilities that are at ground level, use a basement area as program space, or have a basement beneath the program area shall have radon testing following the National Consensus Standards as outlined in 641—Chapter 43.

c. To reduce the risk of carbon monoxide poisoning, all centers shall, on an annual basis, have a professional inspect all fuel-burning appliances, including oil and gas furnaces, gas water heaters, gas ranges and ovens, and gas dryers, to ensure the appliances are in good working order with proper ventilation. All centers shall install one carbon monoxide detector on each floor of the center that is listed with Underwriters Laboratory (UL) as conforming to UL Standard 2034 (August 7, 2024).

441—109.12(237A) Activity program requirements.

109.12(1) Activities. The center shall have a written curriculum that uses developmentally appropriate practices and a written program of activities planned according to the developmental level of the children. The center shall post a schedule of the program in a visible place. The child care program shall complement but not duplicate the school curriculum. The program shall be designed to provide children with:

- a. A curriculum or program of activities that supports development of self-esteem, self-regulation, positive social interactions, communication skills, curiosity, problem-solving, creative expression, and gross motor and fine motor development.
- b. A balance of active and quiet activities, individual and group activities, indoor and outdoor activities, and staff-initiated and child-initiated activities.
- c. Experiences in harmony with the ethnic and cultural backgrounds of the children.
- d. A supervised nap or quiet time for all children under six years of age not enrolled in school who are present at the center for five or more hours.

109.12(2) Discipline. The center shall have a written policy that shall be provided to staff at the start of employment and to parents at the time of admission. The center shall not use as a form of discipline:

- a. Corporal punishment, including spanking, shaking, and slapping.
- b. Punishment that is humiliating or frightening or that causes pain to the child. Children shall never be locked in a room or closet.
- c. When restraints are part of a treatment plan for a child with a disability authorized by the parent and a psychologist or psychiatrist, staff shall receive training on the safe and appropriate use of the restraint.
- d. Punishment or threat of punishment associated with a child's illness, lack of progress in toilet training, or in connection with food or rest.
- e. No child shall be subjected to verbal abuse, threats, or derogatory remarks about the child or the child's family.

109.12(3) Children requiring special accommodations. Reasonable accommodations, based on the special needs of the child, must be made in providing care to a child with a disability.

109.12(4) Infant environment.

- a. An area shall be provided that is properly and safely equipped for the use of infants and free from the intrusion of children two years of age and older.
- b. Each infant and toddler shall be diapered in a sanitary manner as frequently as needed at a central diapering area. Diapering, sanitation, and hand-washing procedures shall be posted and implemented in every diapering area. There shall be at least one changing table for every 15 infants.
- c. Highchairs or hook-on seats shall be equipped with a safety strap that shall be engaged when the chair is in use and shall be constructed so the chair will not topple.
- d. Safe, washable toys, large enough so they cannot be swallowed and with no removable parts, shall be provided. All hard-surface toys used by children shall be sanitized daily.
- e. The provider shall follow safe sleep practices for infants under one year of age.
 - (1) Infants shall always be placed on their backs for sleep.
 - (2) Infants shall be placed on a firm mattress with a tight fitted sheet that meets U.S. Consumer Product Safety Commission (August 1, 2024) and ASTM federal standards (August 1, 2024).
 - (3) Infants shall not be allowed to sleep on a bed, sofa, air mattress or other soft surface. No child shall be allowed to sleep in any item not designed for infant sleeping, including but not limited to an infant seat, car seat, swing, or bouncy seat.
 - (4) No toys, soft objects, stuffed animals, pillows, bumper pads, blankets, or loose bedding shall be allowed in the sleeping area with the infant.
 - (5) No co-sleeping shall be allowed.
 - (6) Sleeping infants shall be actively observed by sight and sound.
 - (7) If an alternate sleeping position is needed, a signed physician or physician assistant authorization with statement of medical reason is required and an expiration date.

f. A crib or crib-like furniture that has a waterproof mattress covering and sufficient bedding to enable a child to rest comfortably and that meets the current standards or recommendations from the U.S. Consumer Product Safety Commission (August 1, 2024) or ASTM International (August 1, 2024) for juvenile products shall be provided for each child under two years of age if developmentally appropriate. Crib railings shall be fully raised and secured when the child is in the crib. A crib or crib-like furniture shall be provided for the number of children present at any one time. The center shall develop procedures for maintaining all cribs or crib-like furniture and bedding in a clean and sanitary manner. There shall be no restraining devices of any type used in cribs.

g. Infant walkers cannot be used.

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

441—109.13(237A) Food services. Centers participating in the USDA Child and Adult Care Food Program (CACFP) may have requirements that differ from those outlined in this rule in obtaining CACFP reimbursement and shall consult with a state CACFP consultant.

109.13(1) *Nutritionally balanced meals or snacks.* The center shall serve each child a full, nutritionally balanced meal or snack as defined by the CACFP guidelines (August 1, 2024) and shall ensure that staff provide supervision at the table during snacks and meals. Children remaining at the center two hours or longer shall be offered food at intervals of not less than two hours or more than three hours apart unless the child is asleep.

109.13(2) *Menu planning.* The center shall follow the minimum CACFP menu patterns for meals and snacks and serving sizes for children aged infant to 13 years (August 1, 2024). Menus shall be made available to parents and kept on file at the center. Substitutions in the menu, including substitutions made for infants, shall be noted and kept on file. Foods with a high incident rate of causing choking in young children should not be served per CACFP FNS-877 (August 1, 2024). Exceptions shall be allowed for special diets because of medical reasons in accordance with the child's needs and written instructions of a licensed physician or health care provider.

109.13(3) *Feeding of children under two years of age.*

a. All children under 12 months of age shall be fed on demand unless the parent provides other written instructions. Meals and snacks provided by the center shall follow the CACFP infant menu patterns (August 1, 2024). Foods shall be appropriate for the infant's nutritional requirements and eating abilities. Special formulas prescribed by a physician or health care provider shall be given to a child who has a feeding problem.

b. Bottles or containers of infant foods should be warmed under running, warm tap water or by placing them in a container of water that is no warmer than 120°F (49°C). Bottles and infant foods should never be warmed in a microwave oven.

c. All children under six months of age shall be held or placed in a sitting-up position sufficient to prevent aspiration during feeding. No bottles shall be propped for children of any age. A child shall not be placed in a crib or cot with a bottle or any other food item or left sleeping with a bottle or food item. Spoon feeding shall be adapted to the developmental capabilities of the child.

d. Single-service, ready-to-feed formulas, concentrated or powdered formula following the manufacturer's instructions or breast milk shall be used for children 12 months of age and younger unless otherwise ordered by a parent or physician.

e. Whole milk for children under two years of age who are not on formula or breast milk unless otherwise directed by a physician shall be used.

f. Cleaned and sanitized bottles and nipples shall be used for bottles prepared on site. Prepared bottles shall be kept under refrigeration when not in use.

109.13(4) *Food brought from home.*

a. The center shall establish policies regarding food brought from home for children under five years of age who are not enrolled in school. A copy of the written policy shall be given to the parent at admission. Food brought from home for children under five years of age who are not enrolled in school

shall be monitored and supplemented if necessary to ensure CACFP guidelines (August 1, 2024) are maintained.

b. The center may not restrict a parent from providing meals brought from home for school-age children or apply nutritional standards to the meals.

c. Perishable foods brought from home shall be maintained to avoid contamination or spoilage.

d. Snacks that may not meet CACFP nutrition guidelines (August 1, 2024) may be provided by parents for special occasions such as birthdays or holidays.

109.13(5) *Food preparation, storage, and sanitation.* Centers shall ensure that food preparation and storage procedures are consistent with the recommendations of the CACFPs (August 1, 2024) and provide:

a. Sufficient refrigeration appropriate to the perishable food to prevent spoilage or the growth of bacteria.

b. Sanitary and safe methods in food preparation, serving, and storage sufficient to prevent the transmission of disease, infestation of insects and rodents, and the spoilage of food. Staff preparing food who have injuries on their hands shall wear protective gloves. Staff serving food shall have clean hands or wear protective gloves and use clean serving utensils.

c. Sanitary methods for dish-washing techniques sufficient to prevent the transmission of disease.

d. Sanitary methods for garbage disposal sufficient to prevent the transmission of disease and infestation of insects and rodents.

109.13(6) *Water supply.* The center shall ensure that suitable water and sanitary drinking facilities are available and accessible to children. Centers that serve infants and toddlers shall provide individual cups for drinking in addition to drinking fountains that may be available in the center.

a. Private water supplies shall be of satisfactory bacteriological quality as shown by an annual laboratory analysis. Water for the analysis shall be drawn between May 1 and June 30 of each year. When the center provides care for children under two years of age, a nitrate analysis shall also be obtained.

b. When public or private water supplies are determined unsuitable for drinking, commercially bottled water certified as chemically and bacteriologically potable or water treated through a process approved by the health department or designee shall be provided.

441—109.14(237A) *Extended evening care.* A center providing extended evening care between the hours of 9 p.m. and 5 a.m. shall comply with the licensing requirements for centers contained in Iowa Code chapter 237A and this chapter, with the additional requirements set forth below.

109.14(1) *Facility requirements.*

a. The center shall ensure that sufficient cribs, beds, cots and bedding are provided appropriate to the child's age and that sufficient furniture, lighting, and activity materials are available for the children. Equipment and materials shall be maintained in a safe and sanitary manner.

b. The center shall ensure that a separate space is maintained for school-age boys and girls to provide privacy during bathroom and bedtime activities. Bathroom doors used by children shall be nonlockable.

c. The center shall ensure that parents have provided the personal effects needed to meet their child's personal hygiene and prepare for sleep. The center shall supplement those items needed for personal hygiene that the parent does not provide. The center shall obtain written information from the parent regarding the child's snacking, toileting, personal hygiene and bedtime routines.

109.14(2) *Activities.*

a. Evening activities shall be primarily self-selected by the child.

b. Every child-occupied room except those rooms used only by school-age children for sleeping shall have adult supervision present in the room. Staff counted for purposes of meeting child-to-staff ratios shall be present and awake at all times. In rooms where only school-age children are sleeping, visual monitoring equipment may be used. If a visual monitor is used, the monitoring must allow for all children to be visible at all times. Staff shall be present in the room with the monitor and shall enter the room used for sleeping to conduct a check of the children every 15 minutes.

441—109.15(237A) School-based before- and after-school and summer programs. A building owned or leased by a school district or accredited nonpublic school that complies with rules adopted by the state fire marshal for school buildings is considered appropriate for use by a child care facility. Centers that operate in a school building shall comply with the licensing requirements for centers contained in Iowa Code chapter 237A and this chapter with the following considerations:

109.15(1) Infant-specific regulations outlined in paragraph 109.12(4) “e” and subrule 109.13(3) are not applicable.

109.15(2) Centers may receive limited exemption from a facility requirement at subrule 109.11(3), particularly relating to ventilation and bathroom facilities, if complying with the requirement would require a structural or mechanical change to the school building.

109.15(3) Centers shall ensure that the indoor and outdoor space occupied by the center is sanitary, safe, and hazard-free. Outdoor space used for recreation during the school day is sufficient for use by the child care program.

109.15(4) Centers that serve only school-age children and that operate in a school building are exempted from testing for lead and carbon monoxide.

109.15(5) Personnel. For director requirements set forth in subrule 109.6(1), for centers serving predominantly school-age children, the directors may substitute a degree in secondary education, physical education, recreation or related fields for the bachelor’s degree in early childhood, child development or elementary education in determining point totals. In addition, child-related experience working with school-age children shall be equivalent to full-time experience in a child care center or preschool in determining point totals.

109.15(6) Child’s file. All requirements under subrule 109.9(2) must be followed. For a center serving school-age children that operates in the same school facility in which the child attends school, documentation, including certificates of immunization, certificates of immunization exemption, or provisional certificates of immunization, shall be submitted to both locations in accordance with 641—Chapter 7.

441—109.16(237A) Get-well center. A get-well center shall comply with the licensing requirements for centers contained in Iowa Code chapter 237A and this chapter with the additional requirements and exceptions set forth below.

109.16(1) *Staff requirements.*

a. The center shall have a medical advisor for the center’s health policy. The medical advisor shall be a medical doctor or a doctor of osteopathy currently in pediatrics or family practice.

b. A center shall have a licensed LPN or RN on duty at all times that children are present. If the nurse on duty is an LPN, the medical advisor or an RN shall be available in the proximate area as defined in rule 655—6.3(152).

109.16(2) *Health policies.*

a. The center shall have a written health policy, consistent with the National Health and Safety Performance Standards (August 1, 2024), approved and signed by the owner or the chair of the board and by the medical advisor before the center can begin operations. Changes in the health policy shall be approved by the medical advisor and submitted in writing to the department. A written summary of the health policy shall be given to the parent when a child is enrolled in the center. The center’s health policy at a minimum shall address procedures in the following areas:

(1) Medical consultation, medical emergencies, triage policies, storage and administration of medications, dietary considerations, sanitation and infection control, categorization of illness, length of enrollment periods, exclusion policy, and employee health policy.

(2) Reportable disease policies as required by the department.

b. The child shall be given a brief evaluation by an LPN or RN upon each arrival at the center.

c. The parent shall receive a brief written summary when the child is picked up at the end of the day. The summary must include:

(1) Admitting symptoms.

(2) Medications administered and time they were administered.

- (3) Nutritional intake.
- (4) Rest periods.
- (5) Output.
- (6) Temperature.

109.16(3) Exceptions. The following exceptions to this chapter shall be applied to get-well centers:

- a.* A center shall maintain a minimum staff ratio of one-to-four for infants and one-to-five for children over two years of age.
- b.* All staff who have contact with children shall have a minimum of ten clock hours of special training in caring for mildly ill children.
- c.* There shall be 40 square feet of program space per child.
- d.* Outdoor space may be waived with the approval of the department if the program is in an area adjacent to the pediatrics unit of a hospital.
- e.* Grouping of children shall be allowed by categorization of illness or by transmission route without regard to age and shall be in separate rooms with full walls and doors.

These rules are intended to implement Iowa Code section 232.69 and chapter 237A.

ARC 8529C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to early childhood Iowa initiative and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 121, “Early Childhood Iowa Initiative,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 256I.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 256I and 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

This proposed rulemaking implements the Early Childhood Iowa Initiative, which aims to empower individuals, communities, and state-level partners to achieve the desired results identified in Iowa Code section 256I.2. The desired results will be achieved as private and public entities work collaboratively. This initiative creates a partnership between communities and state-level partners to support children through age five and their families. The role of the Early Childhood Iowa State Board, area boards, and other state and local government agencies is to provide support, leadership, and facilitation of the growth of individual, community, and state responsibility in addressing the desired results.

This rulemaking also implements 2024 Iowa Acts, Senate File 2385, which eliminates the Early Childhood Stakeholders Alliance.

Finally, this rulemaking is combined with the Red Tape Review process under Executive Order 10, which would have normally occurred in calendar year 2026.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 12, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 15, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 240 123 537 880 Passcode: 4MT8Ac
January 17, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 273 055 800 019 Passcode: FggQZn

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 121 and adopt the following **new** chapter in lieu thereof:

CHAPTER 121
EARLY CHILDHOOD IOWA INITIATIVE

441—121.1(256I) Definitions. For the purpose of these rules, the following definitions apply:

“Community partners” means individuals, early childhood service providers, and staff of other programs or agencies that communicate, coordinate and collaborate with an area board.

“Designation” means the status awarded by the state board to an early childhood Iowa area meeting the criteria established by the state board.

“Early childhood Iowa area” or *“area”* means the same as defined in Iowa Code section 256I.1.

“Early childhood Iowa area board” or *“area board”* means the same as defined in Iowa Code section 256I.1.

“Early childhood Iowa fund” means a fund created in the state treasury from which moneys are distributed to early childhood Iowa areas for the purpose of supporting children and their families.

“Early childhood Iowa office” means a state unit within the department to coordinate the early childhood Iowa initiative.

“Early childhood Iowa state board” or *“state board”* means the state of Iowa’s early childhood Iowa board as appointed by the governor that meets the membership criteria of citizens and state agency directors as voting members and legislators as nonvoting members.

“Evidence-based” means that a program has completed a randomized control trial conducted by an independent researcher and has demonstrated positive results for children and families. “Evidence-based” may also include research conducted by the program that has been published in a peer-reviewed journal that also demonstrates positive results for children and families. To be evidence-based, the program must include stringent standards for program replication including standards for implementation and monitoring to ensure that the program is being operated with fidelity to the original model.

“Indicator” means a measure that indirectly quantifies the achievement of a result.

“Result” means the effect desired for Iowans.

“State agency” means a department of the executive branch including but not limited to the departments of economic development, education, health and human services, and workforce development.

441—121.2(256I) Early childhood Iowa state board responsibility.

121.2(1) The state board will provide leadership and coordination for the development of Iowa’s early care, health and education system in cooperation with area boards, community partners and other state agencies.

121.2(2) The state board will:

a. Develop and implement a process for designating area boards. The state board will review the process at the close of each designation cycle.

b. Adopt state-level indicators with input from area boards. The state board will report on indicators each fiscal year and compare the data against baseline data and data from prior fiscal years as available. Indicators will measure all result areas of the early care, health and education system.

c. Adopt minimum standards to promote equal access to services subject to the authority of the area boards.

d. Adopt guidelines and standards for services provided under a school ready children grant. All guidelines and standards will be found in the online toolkit available on department’s official website.

e. Further the development of an early childhood integrated data system across state agencies and other partners.

f. Develop guidance to identify and improve the quality of services in early care, health and education programs, including evidence-based practices.

g. Promote other measures to advance the initiative.

441—121.3(256I) Early childhood Iowa coordination staff. In consultation with the state board, the department will provide fiscal oversight of the early childhood Iowa initiative. The fiscal oversight measures are defined in 441—Chapter 122.

441—121.4(256I) Early childhood Iowa areas.

121.4(1) The state board will approve early childhood Iowa area boundaries and the creation of area boards. Minimum criteria for areas and approval of area boards are set forth in Iowa Code section 256I.6.

121.4(2) The state board may waive any of the minimum criteria referenced in Iowa Code section 256I.6, if it is determined that exceptional circumstances exist. The state board further defines exceptional circumstances to include when the proposed change of boundaries creates hardship that reduces performance or quality of services within the area. The area board must provide compelling documentation of the hardship and clearly document the impact to performance or quality of services or both.

These rules are intended to implement Iowa Code sections 256I.1 through 256I.11.

ARC 8469C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rulemaking related to payments for foster care
and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to amend Chapter 156, “Payments for Foster Care,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 234.38 and 2024 Iowa Acts, House File 2698.

Purpose and Summary

2024 Iowa Acts, House File 2698, states that funds appropriated shall be used to increase foster care reimbursement rates by 5 percent over the rates in effect on June 30, 2024. These proposed amendments establish the new rate for maintenance payment for foster family care. They also modify the timeline to receive kinship caregiver payments.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. Public hearings were held on the following date(s):

- November 12, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa beyond that of the underlying legislation.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by HHS no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
 Department of Health and Human Services
 Lucas State Office Building
 321 East 12th Street
 Des Moines, Iowa 50319
 Phone: 515.829.6021
 Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 15, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 240 123 537 880 Passcode: 4MT8Ac
January 17, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 273 055 800 019 Passcode: FggQZn

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 156.6(1) as follows:

156.6(1) Basic rate. A monthly payment for care in a foster family home licensed in Iowa shall be made to the foster family based on the following schedule:

<u>Age of child</u>	<u>Daily rate</u>
0 through 5	\$16.78 <u>\$17.62</u>
6 through 11	\$17.45 <u>\$18.32</u>
12 through 15	\$19.10 <u>\$20.06</u>
16 or over	\$19.35 <u>\$20.32</u>

ITEM 2. Amend rule 441—156.7(234) as follows:

441—156.7(234) Kinship caregiver payment.

156.7(1) A kinship caregiver payment is a monthly payment to financially support the care of a child in a kinship caregiver's home. If approved by the department, kinship caregiver payment will be provided for a period of up to ~~six~~ four months.

156.7(2) All of the following conditions apply:

a. For each eligible child living in a kinship placement, a caregiver will receive ~~up to \$310 (\$10 per day)~~ a monthly payment according to the basic rate schedule in subrule 156.6(1) as a result of a court-ordered placement.

b. The payment will begin after ~~two consecutive months~~ 14 days of the child's placement in the kinship caregiver's home. The ~~two-month~~ 14-day requirement is waived if the child enters the kinship caregiver's home immediately following a paid placement for at least 30 days.

c. The payment will continue for up to ~~six~~ four months.

d. and e. No change.

This rule is intended to implement Iowa Code section 232.102.

ARC 8541C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to more options for maternal support program and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to adopt a new Chapter 164, "More Options for Maternal Support (MOMS) Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.41C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 217.41C and 2024 Iowa Acts, Senate File 2252.

Purpose and Summary

This rulemaking implements 2024 Iowa Acts, Senate File 2252.

The MOMS program is designed to:

- Provide personalized support to pregnant women to provide stabilization for families.
- Promote improved pregnancy outcomes, including reducing abortions, by helping women practice sound, health-related behaviors and improve prenatal nutrition.
- Improve child health and development by helping parents provide responsible and competent care for their children.
- Improve family economic self-sufficiency by linking parents to services that address individual economic and social needs.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

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

January 16, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 245 418 432 946 Passcode: HDCTJV
January 21, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 265 152 739 982 Passcode: gcc2UJ

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following new 441—Chapter 164:

CHAPTER 164
MORE OPTIONS FOR MATERNAL SUPPORT (MOMS) PROGRAM

441—164.1(217) Definitions.

“*Client*” means an individual receiving the services enumerated in Iowa Code section 217.41C through the program.

“*Pregnancy support services*” means the same as defined in Iowa Code section 217.41C.

“*Program*” means the more options for maternal support (MOMS) program outlined in Iowa Code section 217.41C.

“Program administrator” means a nonprofit entity incorporated in this state with a tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code that is awarded a contract by the department to administer the program, including managing a statewide network of providers and other duties outlined in Iowa Code section 217.41C.

“Provider of pregnancy support services” or *“provider”* means the same as defined in Iowa Code section 217.41C.

441—164.2(217) Pregnancy support services. Pregnancy support services do not include health care treatment or services for purposes of the Health Insurance Portability and Accountability Act of 1996.

441—164.3(217) Program administrator responsibilities.

164.3(1) If a nonprofit entity is awarded a contract by the department though the request for proposals process to administer the program, that program administrator may assume ownership and oversight of any existing contracts providers have with the department. The program administrator will work with the department to facilitate and execute the contract reassignments.

164.3(2) A program administrator shall prepare and submit an annual program evaluation report in a format prescribed by the department at the end of each contracted year. The program administrator shall use the results of the evaluation report at a minimum to support and assist providers in the continuous quality improvement process.

164.3(3) A program administrator shall maintain a minimum number of providers, as specified by the department, to include any provider contracts reassigned by the department, if applicable.

164.3(4) A program administrator shall only be eligible to receive reimbursement for services described in its contract and shall not charge additional fees to the department or to providers.

441—164.4(217) Client feedback. The department will create a process for clients to provide confidential feedback regarding their experience with providers.

441—164.5(217) Appeals. An applicant for program administrator, provider, or client who disagrees with a decision of the department may submit an appeal in accordance with 441—Chapter 7.

These rules are intended to implement Iowa Code section 217.41C.

ARC 8504C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to dental board administration and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt new Chapter 570, “Dental Board Administration,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 153, and 272C and section 147.76.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.3, 147.14, 147.22, and 153.33.

Purpose and Summary

This proposed rulemaking promulgates Chapter 570 and implements Iowa Code chapters 147 and 153 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code sections 147.76 and 153.33 provide rulemaking authority.

This rulemaking implements the aforementioned Iowa Code sections by publicly outlining administrative processes of the Dental Board within DIAL's Licensing Division. This includes providing an explanation regarding the purpose of the Board, the organization of the Board and Dental Hygiene Committee, requests for information, and public meetings. All Board definitions have also been combined in this one chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

There were no public comments received with regard to this chapter and no changes were made as a result.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#
January 3, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps

Or dial: 575.587.5605
PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 570:

CHAPTER 570
DENTAL BOARD ADMINISTRATION

481—570.1(153) Definitions. As used in these rules:

“*ACC*” means the anesthesia credentials committee of the board.

“*Accredited school*” means a dental, dental hygiene, or dental assisting education program accredited by the American Dental Association Commission on Dental Accreditation.

“*Active patient*” means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the previous two years.

“*ASA*” refers to the American Society of Anesthesiologists Patient Physical Status Classification System. Category I means normal healthy patients, and category II means patients with mild systemic disease. Category III means patients with severe systemic disease, and category IV means patients with severe systemic disease that is a constant threat to life.

“*Authorized delegate*” means a licensed or registered health care professional who has obtained prescription monitoring program (PMP) log-in credentials. A dental assistant trainee cannot serve as an authorized delegate.

“*Board*” means the dental board.

“*Capnography*” means the monitoring of the concentration of exhaled carbon dioxide in order to assess physiologic status or determine the adequacy of ventilation during anesthesia.

“*Chapter*” means Iowa Code chapter 153.

“*Clinical training*” means training that includes patient experiences.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“*Continuing dental education*” consists of education activities designed to review and update concepts, techniques, and knowledge on advances in dental and medical sciences. The objective of continuing dental education is to improve the knowledge, skills, and ability of the individual to deliver the highest quality of service to the public and professions. Continuing dental education programs should make it possible for practitioners to adapt dental practice to new knowledge as it becomes available. All continuing dental education should strengthen judgment and professional technique.

“*Controlled substance*” means a drug, substance, or immediate precursor in schedules I through V listed in subchapter II of Iowa Code chapter 124.

“*Coronal polish*” means an adjunctive procedure that must also include removal of any calculus, if present, by a dentist or dental hygienist. Coronal polishing of teeth using only a rotary instrument and a

rubber cup or brush for such purpose, when performed at the direction of and under the supervision of a licensed dentist, is deemed not to be the giving of prophylactic treatment.

“DAANCE” means the dental anesthesia assistant national certification examination as offered by the American Association of Oral and Maxillofacial Surgeons (AAOMS).

“Deep sedation” means drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

“Dental assistant” means any person who, under the supervision of a dentist, performs any extraoral services including infection control or the use of hazardous materials or performs any intraoral services on patients. The term “dental assistant” does not include persons otherwise actively licensed in Iowa to practice dental hygiene or nursing who are engaged in the practice of said profession.

“Dental assistant trainee” means any person who is engaging in on-the-job training to meet the requirements for registration in accordance with Iowa Code section 153.39 and who is practicing in accordance with 481—Chapter 575.

“Dental hygiene committee” means the same as described in Iowa Code section 153.33A.

“Dental laboratory technician” as used in these rules includes a person other than a licensed dentist, dental hygienist or registered dental assistant who fabricates, constructs, makes, or repairs oral prosthetic appliances solely and exclusively for a licensed dentist and under a dentist’s supervision or direction. A dental laboratory technician who performs any of the duties of a dental assistant, as defined in this chapter, must be registered with the board as a dental assistant.

“Dental public health” is the science and system of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice in which the community serves as the patient rather than the individual. It is concerned with the dental health education of the public, applied dental research, the administration of group dental care programs, and the prevention and control of dental diseases.

“Dental radiography” means the application of X-radiation to human teeth and supporting structures for diagnostic purposes only.

“Department” means the department of inspections, appeals, and licensing.

“Deposition” means the testimony of a person pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

“Didactic training” means educational instruction.

“Direct supervision” means that the dentist is present in the treatment facility, but it is not required that the dentist be physically present in the treatment room, or the dentist is not present in the treatment facility but is able to appear using live video upon request with a response time similar to what would be expected if the dentist were present in the treatment facility.

“Expenses” means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding. Mileage shall be reimbursed in accordance with Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

“Fabrication” means the construction or creation of an impression, occlusal registration, provisional restoration or denture, as defined in this chapter.

“Facility” means any dental office or clinic where sedation is used in the practice of dentistry. The term “facility” does not include a hospital.

“Fee” means the amount charged for the services described in this chapter.

“General anesthesia” means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

“General supervision” means that a dentist has examined the patient, prior-prescribed in the patient record, and delegated the services to be provided because the dentist will be neither present in the facility nor available by live video. Patients or their legal guardians must be informed prior to the appointment that no dentist will be present and therefore no examination will be conducted at that appointment. The dental assistant or dental hygienist must consent to the arrangement and be capable of implementing basic emergency procedures, which have been established.

“Hour of continuing education” means one unit of credit granted for each hour of instruction.

“Issuance” means, for the purposes of contested cases, the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“Knowledge” means any information or evidence acquired from personal observation, from a reliable or authoritative source, or under circumstances that cause the licensee or registrant to believe that there exists a substantial likelihood that an act or omission may have occurred.

“Laboratory training” means training that is hands-on, that may include simulation, and that prepares a dental hygienist or dental assistant for patient experiences. Laboratory training can be done with an approved training provider or with a supervising dentist as part of an approved course.

“Lapsed license,” “lapsed permit,” or “lapsed registration” means a license, permit, or registration that a person has failed to renew as required or the license, permit, or registration of a person who failed to meet stated obligations for renewal within a stated time. A person whose license, permit, or registration has lapsed continues to hold the privilege of licensure or registration in Iowa but may not practice dentistry, dental hygiene, or dental assisting until the license, permit, or registration is reinstated.

“License” means a certificate issued to a person to practice as a dentist or dental hygienist under the laws of this state.

“Licensed sedation provider” means a physician anesthesiologist currently licensed by the board of medicine or a certified registered nurse anesthetist (CRNA) currently licensed by the board of nursing.

“Licensee” means a person who has been issued a certificate to practice as a dentist or dental hygienist under the laws of this state.

“Medical examination fees” means actual costs incurred by the board in a physical, mental, chemical abuse, or other impairment-related examination or evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

“Minimal sedation” means a minimally depressed level of consciousness produced by a pharmacological method that retains the patient’s ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. A patient whose only response reflex is withdrawal from repeated painful stimuli is not considered to be in a state of minimal sedation.

“Moderate sedation” means a drug-induced depression of consciousness, either by enteral or parenteral means, during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. A patient whose only response reflex is withdrawal from a painful stimulus is not considered to be in a state of moderate sedation.

“Monitoring nitrous oxide inhalation analgesia” means continually observing the patient receiving nitrous oxide and recognizing and notifying the dentist of any adverse reactions or complications.

“MRD” means the manufacturer’s maximum recommended dose of a drug as printed in FDA-approved labeling.

“Nitrous oxide inhalation analgesia” refers to the administration by inhalation of a combination of nitrous oxide and oxygen producing an altered level of consciousness that retains the patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

“Observational supervision” is intended for expanded function training purposes only and means that the dentist is physically present in the treatment room to oversee and direct all services being provided as part of clinical training.

“Opioid” means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

“Overpayment” means payment in excess of the required fee. Overpayment shall result in the return of the original request and payment, prior to processing, with a clarification of the total amount due.

“Party” means the state or the respondent for the purposes of contested cases.

“Patient experiences” are procedures that are performed on a patient during the course of clinical training. For the purposes of expanded function training, patient experiences will be completed under the observational supervision of a dentist.

“Patient monitor” means a dental assistant, dental hygienist, nurse or dentist whose primary responsibility is to continuously monitor a patient receiving moderate sedation, deep sedation or general anesthesia until the patient meets the criteria to be discharged to the recovery area.

“Pediatric” means patients aged 12 or under.

“Peer review” is defined in Iowa Code section 272C.1(7).

“Permit holder” means an Iowa licensed dentist who has been issued a moderate sedation or general anesthesia permit by the board.

“Personal supervision” means a licensee or registrant is physically present in the room to oversee and instruct all services of the dental assistant trainee as delegated by a licensed dentist.

“Practice of dentistry,” as defined in Iowa Code section 153.13, includes persons who publicly claim to be dentists, dental surgeons, or skilled in the science of dentistry and are deemed to be practicing dentistry. Performance of, or assistance with, any of the following also constitutes the practice of dentistry: examination, diagnosis, treatment, or attempted correction of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, or any phase of any operation incident to tooth whitening, including the instruction or application of tooth whitening materials or procedures. *“Tooth whitening”* is any process to whiten or lighten the appearance of human teeth by the application of chemicals, whether or not in conjunction with a light source.

“Prescription drug” means a drug, as classified by the United States Food and Drug Administration, that is required to be prescribed or administered to a patient by a practitioner prior to dispensation.

“Prescription monitoring program” or *“PMP”* means the program administered by the board of pharmacy for the collection and provision of information related to drug prescribing and dispensing.

“Presiding officer” means the dental board or a panel of the board. In a contested case proceeding, the board may request that an administrative law judge make initial rulings on prehearing matters and assist and advise the board in presiding at the disciplinary contested case hearing. Pursuant to Iowa Code section 272.6, the board may delegate the hearing of contested cases to an administrative law judge.

“Proposed decision” means recommended findings of fact, conclusions of law, decision, and order in a contested case issued by an administrative law judge or hearing panel and for which the full board did not preside.

“Prosthetic” means, for the purposes of expanded function training, any provisional or permanent restoration intended to replace a tooth or teeth.

“Provisional restoration” means, for the purposes of expanded function training, a restoration or appliance that is formed or preformed for temporary purposes, used over a limited period of time.

“Public health settings” means schools; Head Start programs; programs affiliated with the early childhood Iowa (ECI) initiative authorized by Iowa Code chapter 256I; child care centers (excluding home-based child care centers); federally qualified health centers; public health dental vans; free clinics; nonprofit community health centers; nursing facilities; the armed forces; and federal, state, or local public health programs.

“Public health supervision” means that a licensed dentist has entered into a written supervision agreement with a licensed dental hygienist or registered dental assistant and authorized and delegated the services to be provided in a public health setting. Services provided under public health supervision may be rendered without the patient’s first being examined by a licensed dentist. Additionally, the supervising dentist is not required to provide future dental treatment to patients served under public health supervision.

“Radiography qualification” means authorization to engage in dental radiography issued by the board.

“Registered dental assistant” means any person who has met the requirements for registration and has been issued a certificate of registration.

“Registrant” means a person who has been issued a certificate to practice as a dental assistant under the laws of this state.

“Registration” means a certificate issued to a person to practice as a dental assistant under the laws of this state.

“Reportable act or omission” means any conduct that may constitute a basis for disciplinary action under the rules or statutory provisions governing the practice of dentistry, dental hygiene, or dental assisting in Iowa.

“Self-study activities” means, for the purposes of continuing education, the study of something by oneself, without direct supervision or attendance in a class. Self-study activities include Internet-based coursework, video programs, correspondence work, research, or programs that are interactive and require participation and decision making on the part of the viewer. Webinars that include instruction in real time and allow for real-time communication with the instructor are not construed to be self-study activities.

“Service charge” means the amount charged for making a service available online and is in addition to the actual fee for a service itself.

“Sponsor” means a person, educational institution, or organization sponsoring continuing education activities. All continuing education activities of such person or organization are deemed approved provided the content complies with the requirements of 481—Chapter 573.

“Time-oriented anesthesia record” means documentation at appropriate time intervals of drugs, doses and physiologic data obtained during patient monitoring.

“Trainee status expiration date” means 12 months from the date of employment as a dental assistant trainee.

“Transcript” means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

“Witness fees” means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purposes of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72, as the case may be.

This rule is intended to implement Iowa Code chapters 147, 153, and 272C.

481—570.2(17A,147,153,272C) Purpose of the board. The purpose of the board is to protect public health, safety, and welfare by administering, interpreting, and enforcing the provisions of law that relate to the practice of dentistry, dental hygiene, and dental assisting. In pursuit of this mission, the board performs these primary functions:

570.2(1) Administers examinations for the testing of dentists, dental hygienists, and dental assistants;

570.2(2) Issues licenses, registrations, certificates, and permits to qualified practitioners;

570.2(3) Sets standards for license, registration, and permit renewal and continuing education;

570.2(4) Enforces Iowa laws regulating the practice of dentistry, dental hygiene, and dental assisting;

570.2(5) Investigates complaints concerning violations of the dental practice Act and rules;

570.2(6) Conducts disciplinary hearings and monitors the compliance of licensees or registrants with board orders; and

570.2(7) Adopts rules and establishes standards for practitioners pursuant to its authority under the Iowa Code and administrative rules.

481—570.3(17A,147,153) Organization of the board.

570.3(1) The board shall be composed in accordance with Iowa Code sections 147.14(1) “c” and 147.19.

570.3(2) A simple majority of the members of the board shall constitute a quorum for the purpose of conducting business.

570.3(3) The board and dental hygiene committee shall elect chairpersons. The board shall also elect officers and should consist of a chairperson, vice chairperson, and other officers as deemed appropriate. Officers will assume their duties immediately following their election.

481—570.4(153) Organization of the dental hygiene committee.

570.4(1) The dental hygiene committee is composed in accordance with Iowa Code sections 147.14(1) “c” and 153.33A. A simple majority of the members of the committee constitutes a quorum for the purpose of conducting business.

570.4(2) Pursuant to Iowa Code section 153.33A, the committee:

a. Has authority to and may adopt recommendations in regard to matters pertaining to the practice, discipline, education, examination, and licensure of dental hygienists and shall carry out other duties as assigned by the board. Recommendations by the committee will be reported to the board. The board shall review and ratify all committee recommendations unless the board makes a specific finding that the recommendation exceeds the jurisdiction of the committee, expands the scope of the committee beyond the authority granted in subrule 1.4(4), creates an undue financial impact, or is not supported by the record. The board may not amend a committee recommendation without the concurrence of the majority of the members of the committee; and

b. Does not have regulatory or disciplinary authority with regard to dentists, dental assistants, dental lab technicians, or other auxiliary dental personnel.

570.4(3) Pursuant to Iowa Code section 153.33A, this rule will not be construed as impacting or changing the scope of practice of the profession of dental hygiene or authorizing the independent practice of dental hygiene.

This rule is intended to implement Iowa Code sections 147.14, 153.33 and 153.33A.

481—570.5(153) Committees of the board.

570.5(1) Pursuant to Iowa Code chapter 272C and section 153.33, the board may establish and utilize ad hoc advisory committees to conduct business. The board chairperson may appoint committee members and chairpersons.

a. The board should annually review its committees to determine ongoing needs and compliance with the following:

(1) The committees may not constitute a quorum of the board; and

(2) Appointments to a standing committee of the board specified in subrule 1.5(2) are subject to board approval.

b. Committee appointments will be for 12 months unless specified otherwise at the time of appointment. Pursuant to Iowa Code section 153.33(1) “f,” committee members may be reimbursed for actual expenses.

c. Committees may hold meetings as needed to conduct the duties authorized by the board.

570.5(2) The standing committees of the board may include the executive committee, anesthesia credentials committee, and licensure and registration committee.

a. The executive committee may include up to four members of the board. The committee should be composed of the chairperson, vice-chairperson and other members as elected by the board.

b. The anesthesia credentials committee should include but not be limited to a dentist member of the board, two members who hold a moderate sedation permit, and two members who hold a general anesthesia permit issued in accordance with 481—Chapter 579. The committee may perform the following duties:

(1) Review and take action on all applications for moderate sedation or general anesthesia permits;

(2) Review and take action on requests for approval of courses that provide training in the administration of moderate sedation, deep sedation, general anesthesia, or a combination thereof for the purposes of qualifying a licensee for a sedation permit in accordance with 481—Chapter 579;

(3) Perform peer reviews or evaluations as deemed necessary and report to the board; and

(4) Other duties authorized by the board.

c. The license registration committee should include three members of the board, two of which are dentists.

(1) The license registration committee may review applications for licensure, registration and permit and take action as authorized by the board; and

(2) Perform other duties authorized by the board.

481—570.6(17A,21,147,153) Meetings.

570.6(1) The board and dental hygiene committee may hold meetings as needed or as requested by the chairperson, the vice chairperson, or a majority of the board or committee.

570.6(2) Written notices stating the time and place of the meetings shall be provided consistent with Iowa Code chapter 21. Except as otherwise provided by statute, all board meetings shall be open and the public shall be permitted to attend.

570.6(3) Dates and locations of board and committee meetings may be obtained from the department's website.

481—570.7(17A,272C) Adoption of uniform and model rules. The board hereby adopts by reference the following:

570.7(1) Uniform Rules on Agency Procedure, 481—Chapter 2, 481—Chapter 3, 481—Chapter 4, 481—Chapter 5, 481—Chapter 6.

570.7(2) Military Service, Veteran Reciprocity, and Spouses of Active-Duty Service Members, 481—Chapter 7.

570.7(3) Licensing and Child Support Noncompliance, Student Loan Repayment Noncompliance, and Nonpayment of State Debt, 481—Chapter 8.

570.7(4) Model Rules for Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions, 481—Chapter 502.

570.7(5) Model Rules for Contested Cases Before Licensing Boards, 481—Chapter 506.

570.7(6) Model Rules for Licensee Review Committee, 481—Chapter 505.

These rules are intended to implement Iowa Code chapter 21 and sections 17A.3, 147.14(1) “c,” 147.22, and 153.33A(1).

ARC 8476C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rulemaking related to dental board fees
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt new Chapter 571, “Dental Board Fees,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 153, and 272C and section 147.76.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 147.10, 147.80, and 153.22.

Purpose and Summary

This proposed rulemaking promulgates Chapter 571 and implements Iowa Code chapters 147 and 153 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code sections 147.76 and 153.33 provide rulemaking authority.

This rulemaking implements the aforementioned Iowa Code sections by establishing fees for dentists, dental hygienists, and dental assistants. This chapter also establishes fees for public record requests and data or mailing lists.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

There were no public comments received with regard to this chapter, and no changes were made as a result.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Dental Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#
January 3, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 571:

CHAPTER 571
DENTAL BOARD FEES

481—571.1(147,153) Establishment of fees. The board is self-supporting through the collection of fees and does not receive an appropriation from the general fund. Pursuant to Iowa Code section 147.80, the department is required to annually prepare an estimate of projected revenues and expenses to ensure that there are sufficient funds to cover projected expenses. The department shall establish fees by rule in accordance with Iowa Code section 147.80.

571.1(1) In addition to the fees specified in this rule, an applicant shall incur a service charge for submitting payments online.

571.1(2) All fees are nonrefundable.

481—571.2(153) Application fees.

571.2(1) *Dental licensure.* The fees for a dental license are as follows:

- a. The application fee for a dental license on the basis of examination is \$200.
- b. The application fee for a dental license on the basis of credentials is \$550.
- c. The application fee for a dental license on the basis of verification is \$550.

571.2(2) *Dental hygiene licensure.* The fees for a dental hygiene license are as follows:

- a. The application fee for a dental hygiene license on the basis of examination is \$100.
- b. The application fee for a dental hygiene license on the basis of credentials is \$200.
- c. The application fee for a dental hygiene license on the basis of verification is \$200.

571.2(3) *Resident license.* The application fee for a resident license is \$120.

571.2(4) *Faculty permit.* The application fee for a faculty permit is \$200.

571.2(5) *Fingerprint packet and criminal history check.* The fee for evaluation of a fingerprint packet and criminal history background check is \$46.

571.2(6) *Dental assistant registration and radiography qualification.* The fees for registration and qualification are as follows:

- a. The application fee for a registered dental assistant is \$40.
- b. The fee for a combined application as a registered dental assistant with a radiography qualification is \$60.
- c. The application fee for a radiography qualification is \$40.

571.2(7) *Anesthesia and sedation permits.* The fees for an anesthesia or sedation permit are as follows:

- a. The application fee for a local anesthesia permit is \$70.
- b. The application fee for a moderate sedation permit is \$500.
- c. The application fee for a general anesthesia permit is \$500.

571.2(8) Temporary permit—urgent need or educational services. The fee for an application for a temporary permit to serve an urgent need or provide educational services is \$100.

481—571.3(153) Renewal fees. Biennial renewal fees are as follows:

571.3(1) Dental license. The renewal fee for a dental license is \$315.

571.3(2) Dental hygiene license. The renewal fee for a dental hygiene license is \$150.

571.3(3) General anesthesia permit. The renewal fee for a general anesthesia permit is \$125.

571.3(4) Moderate sedation permit. The renewal fee for a moderate sedation permit is \$125.

571.3(5) Local anesthesia permit. The renewal fee for a local anesthesia permit is \$25.

571.3(6) Dental assistant registration. The renewal fee for registration as a registered dental assistant is \$75.

571.3(7) Combined dental assistant registration and qualification in radiography. The renewal fee for both a registration as a registered dental assistant and a radiography qualification is \$115.

571.3(8) Dental assistant qualification in radiography. The renewal fee for a qualification in dental radiography is \$40.

571.3(9) Faculty permit. The renewal fees for a faculty permit are as follows:

a. The renewal fee for a dental faculty permit is \$315.

b. The renewal fee for a dental hygiene faculty permit is \$150.

571.3(10) Resident license extension. The fee for extension of a resident license is \$40.

481—571.4(153) Late renewal fees. A licensee, registrant or permit holder who fails to renew a license, registration or permit by the expiration date is subject to late renewal fees as described in this rule.

571.4(1) Dental or dental hygiene license or faculty permit.

a. Renewals completed between September 1 and September 30 are subject to a late fee of \$100, in addition to the renewal fee.

b. Renewals completed between October 1 and October 31 are subject to a late fee of \$150, in addition to the renewal fee.

571.4(2) Dental assistant registration or dental radiography qualification.

a. Renewals completed between September 1 and September 30 are subject to a late fee of \$20, in addition to the renewal fee.

b. Renewals completed between October 1 and October 31 are subject to a late fee of \$40, in addition to the renewal fee.

481—571.5(147,153) Reinstatement fees. Licensees, registrants or permit holders who make an application for reinstatement are subject to fees as described in this rule.

571.5(1) Reinstatement application fees. The application fees for reinstatement are as follows:

a. The reinstatement application fee for a dental license is \$150.

b. The reinstatement application fee for a dental hygiene license is \$100.

c. The reinstatement application fee for a dental assistant registration is \$50.

d. The reinstatement application fee for a qualification in dental radiography without registration is \$40.

571.5(2) Past due renewal fees. In addition to the application fee for reinstatement specified in this rule, the applicant must pay the additional fees as follows:

a. The past due renewal fee for a dental license is \$315.

b. The past due renewal fee for a dental hygiene license is \$150.

c. The past due renewal fee for a dental assistant registration is \$75.

d. The past due renewal fee for a dental assistant registration and qualification in dental radiography without registration is \$115.

e. The past due renewal fee for a qualification in dental radiography without registration is \$40.

481—571.6(153) Miscellaneous fees. Fees for additional requests are as follows:

571.6(1) Duplicates. The fee for issuance of a hard-copy duplicate license, permit or registration certificate or current renewal is \$25. Electronic copies are provided at no cost.

571.6(2) *Certification or verification.* The fee for a written certification or written verification of an Iowa license, permit or registration is \$25. Results of an online licensee search are available at no cost.

571.6(3) *Iowa practitioner review committee (IPRC) monitoring.* The monitoring fee for compliance with an IPRC agreement is \$100 per quarter, unless otherwise stated in the health practitioner contract entered into pursuant to 481—Chapter 505.

571.6(4) *Monitoring for compliance with board orders.* The monitoring fee for compliance with a board order is \$300 per quarter, unless otherwise stated in the board order.

481—571.7(153) Contested case hearings—fees and costs. The board may request reimbursement of certain costs associated with contested case hearings.

571.7(1) *Hearing fee.* The board may charge a fee not to exceed \$75 for conducting a contested case hearing that results in action being taken against the licensee or registrant.

571.7(2) *Procedure and personnel costs.* The board may recover from the licensee or registrant costs for the following:

- a. Court reporter and transcript.
- b. Witness fees and expenses. The parties in a contested case shall be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing and may also include witness fees and expenses incurred by witnesses called to testify on behalf of the state of Iowa.
- c. Depositions. Deposition costs, for the purposes of allocating costs against a licensee, include only those deposition costs incurred by the state of Iowa. The licensee or registrant is directly responsible for the payment of deposition costs incurred by the licensee or registrant.
- d. Medical examination fees incurred relating to a person licensed under Iowa Code chapter 147. All costs of physical or mental examinations, substance abuse evaluations or drug screening, or clinical competency evaluations ordered by the board pursuant to Iowa Code section 272C.9(1) as part of an investigation or pending complaint or as a sanction following a contested case shall be paid directly by the licensee or registrant.

571.7(3) *Certification of reimbursable costs.* The executive director or designee shall calculate and certify any reimbursable costs incurred by the board.

571.7(4) *Assessment of fees and costs.* A final decision of the board imposing action against a licensee or registrant shall include the amount of any contested case hearing fee assessed pursuant to 481—Chapter 11. If the board also assesses reimbursable costs against the licensee or registrant, the board shall file a certification of reimbursable costs that includes a statement of costs delineating each category of costs and the amount assessed. Fees and costs that cannot be calculated at the time of the issuance of the board's final order may be invoiced at a later time, provided the board's final order states that the fees and costs will be invoiced at a later date. The board order will specify the time period in which the fees and costs must be paid.

571.7(5) *Failure to pay assessed fees, costs.* Failure of a licensee or registrant to pay the fees and costs assessed herein within the time period specified in the board's final order shall constitute a violation of an order of the board and may be grounds for disciplinary action.

481—571.8(153) Facility inspection fee. The actual costs for an on-site evaluation of a dental facility at which moderate sedation, deep sedation, or general anesthesia is authorized pursuant to 481—Chapter 579 will not exceed \$500 per facility per inspection.

481—571.9(22,147,153) Public records. Public records are available according to 481—Chapter 5. The department will release the records upon receipt of payment.

571.9(1) Copies of public records will be calculated at \$0.25 per page plus labor.

571.9(2) A \$16 per hour fee may be charged for labor in excess of one-half hour for searching, retrieving, and copying documents.

571.9(3) No additional fee will be charged for delivery of the records.

571.9(4) The department will not require payment when the fees for the request would be less than \$5 total.

481—571.10(22,147,153) Data or mailing lists.

571.10(1) The department will provide data and mailing lists in electronic format following receipt of payment.

a. The standard mailing list includes active licensees, registrants, and resident licensees and faculty permit holders when applicable.

b. The standard data list includes the mailing address, license, registration or permit number, status, original issue date, expiration date, specialty (if applicable), and whether disciplinary action has been taken. The standard data list includes active licensees, registrants, and resident licensees and faculty permit holders when applicable.

571.10(2) Data and mailing list fees.

a. The fee for a standard mailing list is \$35 per profession requested.

b. The fee for a standard data list is \$45 per profession requested.

c. Additional data elements, programming or sorting increases the fees by \$25 per profession.

481—571.11(147,153) Returned checks. The department shall charge a fee of \$39 for a check returned for any reason. The department will request payment by certified check or money order. If the fees are not paid within two weeks of notification of the returned check by certified mail, the licensee or registrant may be subject to disciplinary action for noncompliance with board rules.

481—571.12(147,153,272C) Copies of the laws and rules. Copies of laws and rules pertaining to the practice of dentistry, dental hygiene, or dental assisting are available as follows:

1. Iowa Code and Iowa Administrative Code access, no fee, available at www.legis.iowa.gov/law/administrativeRules/agencies.

2. Printed copies of the Iowa Code chapters that pertain to the practice of dentistry, \$10.

3. Printed copies of dental board rules in the Iowa Administrative Code, \$15.

481—571.13(17A,147,153,272C) Waiver prohibited. Rules in this chapter are not subject to waiver pursuant to 481—Chapter 6 or any other provision of law.

These rules are intended to implement Iowa Code sections 147.10, 147.80 and 153.22.

ARC 8487C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to dental licensure, registration, renewal and reinstatement and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt new Chapter 572, “Dental Licensure Registration, Renewal and Reinstatement,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 153, and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147, 153, and 252J, and sections 136C.3, 147.2, 147.10, 147.11, 147.34, 153.19, 153.22, 153.23, 153.31, 153.37, 153.39, 272C.2, 272C.12, and 272C.12A.

Purpose and Summary

These proposed rules set minimum standards for entry into the dental profession for dentists, dental hygienists, dental assistants, and those who are applying for a local anesthesia permit. These rules also articulate minimum standards for those applying for a resident license, faculty permit, retired volunteer license, or temporary permit. The process for initial licensure by examination, credentials, or verification and for those who are foreign trained is articulated in these rules. Requirements for licensure include the application process, minimum educational qualifications, a passing score on all required examinations, and remediation as necessary. These rules also include information relevant to renewal and reinstatement for these licensees. Iowa residents, licensees, and employers benefit from the chapter because it articulates the processes and pathways by which individuals apply for licensure in the state of Iowa, as directed in statute. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

No public comments were received with regard to this chapter. DIAL did make corrections and add language that was excluded in error during revisions with regard to volunteer retired dentists.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition DIAL for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by DIAL no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025
12 noon to 12:30 p.m.

Suite 100
6200 Park Avenue
Des Moines, Iowa
meet.google.com/cvm-tzam-vps

January 3, 2025
12 noon to 12:30 p.m.

Or dial: 575.587.5605
PIN: 850 703 192#
Suite 100
6200 Park Avenue
Des Moines, Iowa
meet.google.com/cvm-tzam-vps
Or dial: 575.587.5605
PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 572:

CHAPTER 572

DENTAL LICENSURE, REGISTRATION, RENEWAL AND REINSTATEMENT

481—572.1(147,153) Applicant responsibilities. Applicants for licensure, permit, registration or qualification, including applicants for renewal and reinstatement, bear full responsibility for complying with the provisions of this rule.

572.1(1) Applicants will make application on forms provided by the department and submit the required information and documentation, which includes the following:

- a.* Paying all applicable fees required by this chapter pursuant to 481—Chapter 571, which may include fees charged by other agencies, organizations, or institutions to provide the information required to complete an application;
- b.* Providing evidence of current certification in cardiopulmonary resuscitation (CPR) that included a hands-on component unless exempted by rule;
- c.* Providing a detailed statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges;
- d.* Providing accurate, up-to-date, and truthful information, including but not limited to prior professional experience, education, training, examination scores, and disciplinary history; and
- e.* Signing and verifying the application as to the truth of the statements contained therein.

572.1(2) An application for a dental or dental hygiene license or faculty permit, including reinstatement of a license, may be considered complete prior to completion of the criminal history background check on the applicant conducted by the division of criminal investigation (DCI) or Federal Bureau of Investigation (FBI) for purposes of review and consideration by the executive director, the committee, or the board. However, an applicant is required to submit an additional completed fingerprint packet and fee within 30 days of a request by the department if an earlier fingerprint submission has been determined to be unacceptable by the DCI or FBI.

572.1(3) If an applicant for license, permit, registration, or qualification applies within four months of the date of expiration, the applicant may pay the renewal fee in addition to the applicable application fees specified in 481—Chapter 571. Payment of the renewal fee at the time of application will result in the renewal of the license, permit, registration or qualification upon issuance.

572.1(4) Applicants must ensure that an application for initial license, permit, registration or qualification, or for reinstatement of the same, is completed within 180 days from the date the application is received.

a. For purposes of establishing timely filing, the postmark on a paper submittal will be used, and for applications submitted online, the electronic timestamp of the date of payment will be deemed the date of filing. If the applicant does not submit all required materials within this time period, or if the applicant does not meet the requirements for the license, permit, registration, or reinstatement, the application will be considered incomplete.

b. If an application is considered incomplete, the applicant will need to submit a new application and pay all applicable fees for further consideration.

This rule is intended to implement Iowa Code sections 147.2, 147.11, 272C.12 and 272C.12A and chapter 153.

481—572.2(147,153) Review of applications.

572.2(1) Upon receipt of a completed application, the executive director as authorized by the board has discretion to:

a. Require additional information relating to the character, education, and experience of the applicant.

b. Authorize the issuance of the license, permit, or registration.

c. Refer the application to the committee for review and consideration for matters including but not limited to prior criminal history pursuant to Iowa Code section 272C.15, chemical dependence, competency, physical or psychological illness, malpractice claims or settlements, or professional disciplinary history that are relevant in determining the applicant's qualifications.

572.2(2) Following review and consideration of an application referred by the executive director, the committee may:

a. Authorize the executive director to issue the license, permit, registration, or qualification.

b. Forward the application to the board for further review and consideration.

572.2(3) Following board review and consideration of an application, the board will:

a. Authorize the issuance of the license, permit, registration or qualification; or

b. Initiate other action in accordance with rule 481—572.22(147,153,272C).

572.2(4) The committee or board may require an applicant to appear for an interview as part of the application process.

572.2(5) The committee or board may defer final decision making on an application if there is a pending investigation or disciplinary action against an applicant who may otherwise meet the requirements for license, permit, registration or qualification, until such time as the matter has been resolved.

This rule is intended to implement Iowa Code chapters 147, 153 and 272C.

481—572.3(147,153) Licensure.

572.3(1) Applicants for licensure to practice dentistry or dental hygiene in this state who meet the requirements of this rule may be eligible for a license on the basis of examination or credentials.

a. Applicants who have held a license issued in another state, district or territory for one year or longer must apply for licensure by credentials.

b. Applicants who are licensed in another jurisdiction and who are unable to satisfy the requirements for licensure by examination or credentials may be eligible for licensure by verification pursuant to rule 481—572.7(272C).

572.3(2) Applications for licensure on the basis of examination or credentials must include the following:

a. Satisfactory evidence of graduation from an accredited dental or dental hygiene school.

(1) Applicants for dental license must have been issued a doctor of dental surgery (DDS) or doctor of medicine in dentistry (DMD) degree.

(2) Graduates of foreign dental schools who have not obtained a DDS or DMD degree from an accredited dental school shall also satisfy the requirements of rule 481—572.4(153).

b. Certification by an authorized representative of the school that the applicant was a student in good standing while attending that school.

c. Evidence of successful passage of the examination administered by the Joint Commission on National Dental Examinations (JCNDE). Applicants who have lawfully practiced dentistry or dental hygiene in another state, district or territory for five or more years are exempt from presenting this evidence.

d. Evidence of successful passage of a board-approved clinical examination pursuant to rule 481—572.14(147,153) and a statement of all other clinical examinations taken by the applicant with an indication of pass/fail for each.

(1) Applicants on the basis of examination must have successfully completed the clinical examination within five years of the date of application.

(2) Applicants who have lawfully practiced dentistry or dental hygiene in another state, district or territory for five or more years may be exempt from presenting this evidence.

e. Certification of all licenses issued to the applicant. The certification should include, at a minimum, the name, license number, status, expiration date, and an indication of whether the applicant has been subject to disciplinary action.

f. The applicable application fees, including the background check fee, as specified in 481—Chapter 571.

g. A completed packet to facilitate a criminal history background check by the DCI and FBI.

h. Evidence of successful completion of a jurisprudence examination pursuant to rule 481—572.15(147,153).

572.3(3) Applicants on the basis of credentials must also submit the following:

a. Pursuant to Iowa Code section 153.21, evidence that the applicant has met at least one of the following:

(1) Holds a license in another state, district, or territory under requirements substantially similar to those of this state, and has three consecutive years of lawful practice immediately prior to the date of application; or

(2) Has less than three consecutive years of practice immediately prior to the filing of the application and evidence of successful passage within the previous five-year period of a board-approved clinical examination pursuant to rule 481—572.14(147,153).

b. Results of a self-query of the National Practitioner Data Bank (NPDB).

572.3(4) The board or committee may also require such examinations as may be necessary to evaluate the applicant for licensure by credentials.

This rule is intended to implement Iowa Code section 272C.12 and chapters 147 and 153.

481—572.4(153) Graduates of foreign dental schools. If a graduate of a foreign dental school does not meet the educational requirements for a license by examination or credentials, and does not qualify for licensure by verification pursuant to Iowa Code section 272C.12, the applicant must meet the requirements of this rule in addition to meeting the other requirements for licensure specified in rule 481—572.3(147,153).

572.4(1) Applications for licensure of graduates of foreign dental schools shall include the following:

a. Evidence of successful completion of dental education that is substantially equivalent to a DDS or DMD degree issued by an accredited school. The applicant may demonstrate this by meeting one of the following requirements:

(1) Successful completion of an undergraduate supplemental dental education program of at least two academic years at an accredited dental school and receipt of a dental diploma, degree or certificate substantially equivalent to a DDS or DMD degree;

(2) Successful completion of a postgraduate general practice residency program of at least one academic year at an accredited dental college; or

(3) Results of a formal evaluation of the applicant's foreign dental education by a board-approved professional credentialing organization. The results of the evaluation must indicate that the nonaccredited dental education completed was substantially equivalent to that of an accredited dental school.

b. A final, official transcript verifying graduation from the foreign dental school at which the applicant originally obtained a dental degree. If the transcript is written in a language other than English, an original, official translation will also be submitted.

c. Verification, when applicable, from the appropriate governmental authority that the applicant was licensed or otherwise authorized by law to practice dentistry in another country and that no adverse action was taken against the license.

d. The applicant will demonstrate to the satisfaction of the board an ability to read, write, speak, understand, and be understood in the English language. The applicant may demonstrate English proficiency by achieving a score sufficient to be rated in the highest level of ability on each section of the Test of English as a Foreign Language (TOEFL) as administered by the Educational Testing Service (ETS), or other evidence approved by the board.

572.4(2) An applicant for licensure who is a graduate of a foreign dental school shall comply with one of the following:

a. Has practiced dentistry in another state, district, territory or country within three years of the date of application; or

b. Has successfully completed a clinical examination or assessment within three years of the date of application to demonstrate ongoing clinical competency.

This rule is intended to implement Iowa Code section 272C.12 and chapters 147 and 153.

481—572.5(153) Dental assistant registration.

572.5(1) Applications for dental assistant registration must include the following:

a. Evidence of board-approved education and training. Education and clinical training may be satisfied by meeting one of the following:

(1) Clinical experience as a dental assistant trainee until competency is achieved as determined by the supervising dentist;

(2) Clinical experience as a dental assistant in another state, district or territory within five years prior to the date of application and competency is verified by the supervising dentist; or

(3) Graduation from an accredited dental assisting program.

b. The application fee as specified in 481—Chapter 571.

c. Evidence of successful completion of board-approved examination in the areas of infection control, hazardous materials, and jurisprudence as specified in rules 481—572.15(147,153) and 481—572.16(147,153), and dental radiography, if the applicant is also applying for a qualification in dental radiography.

d. Evidence of meeting the requirements of rule 481—572.6(136C,153) if the applicant intends to engage in dental radiography.

572.5(2) A dental assistant who is licensed or registered in another jurisdiction but who is unable to satisfy the requirements for registration in this rule may be eligible to apply for registration by verification pursuant to rule 481—572.7(272C).

This rule is intended to implement Iowa Code sections 147.34, 153.39 and 272C.12.

481—572.6(136C,153) Dental radiography qualification.

572.6(1) Applicants for a radiography qualification must also be registered as a dental assistant or hold an active license issued by the board of nursing.

572.6(2) Applications for dental radiography qualification must include the following:

a. Evidence of successful completion, within the previous five years, of education and clinical training in the area of dental radiography. The education and clinical training may be satisfied by meeting one of the following:

- (1) Completion of on-the-job training in dental radiography until competency is achieved as determined by the supervising dentist;
 - (2) Practice as a dental assistant in another state that included clinical experience taking dental radiographs within the previous five years;
 - (3) Graduation from an accredited dental assisting program; or
 - (4) Certification from the Dental Assisting National Board (DANB) that includes dental radiography and was issued within five years of the date of application.
- b.* The application fee as specified in 481—Chapter 571.
 - c.* Evidence of successful completion a board-approved examination in the area of dental radiography in accordance with rule 481—572.16(147,153).

This rule is intended to implement Iowa Code sections 136C.3 and 153.39.

481—572.7(272C) Licensure or registration by verification. Applicants may be eligible for licensure or registration by verification pursuant to Iowa Code section 272C.12. Applicants are required to hold a current license or registration in the same profession in at least one other jurisdiction that has a scope or practice that is substantially similar to that of Iowa.

572.7(1) Applications must include the following:

- a.* The applicable application fees, including the background check fee for applicants of a dental or dental hygiene license, as specified in 481—Chapter 571.
- b.* For dental or dental hygiene applicants, a completed packet to facilitate a criminal history background check.
- c.* A verification form, completed by the licensing authority in the jurisdiction that issued the applicant's license or registration, verifying that the applicant's license or registration in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.
- d.* Evidence of successful completion of a board-approved jurisprudence examination, pursuant to rule 481—572.15(147,153).
- e.* Copies of a complete criminal record, if the applicant has a criminal history.
- f.* A copy of the relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.
- g.* A written statement from the applicant detailing the scope of practice in the other state.
- h.* Copies of relevant laws setting forth the scope of practice in the other state.

572.7(2) If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue nor deny a license or registration until the matter is resolved. A person who has had a license or registration revoked, or voluntarily surrendered a license or registration, in another jurisdiction is ineligible for licensure or registration by verification.

572.7(3) If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue nor deny a license or registration until the complaint, allegation, or investigation is resolved.

572.7(4) Applicants who satisfy all requirements for a license or registration under this rule except for passing the jurisprudence examination may be issued a temporary license or registration in accordance with the following:

- a.* A temporary license or registration is valid for a period of three months.
- b.* A temporary license or registration may be renewed once for an additional period of three months if the applicant has not failed the jurisprudence examination.
- c.* A temporary licensee or registrant shall display the board-issued license or registration renewal card that indicates the license or registration is temporary, which will satisfy the requirements in rule 481—574.2(147,153).

d. The temporary licensee or registrant must submit proof of passing the jurisprudence examination before the temporary license or registration expires. When the temporary licensee or registrant submits proof of passing the jurisprudence examination, the temporary license or registration will convert to a standard license or registration and be assigned an expiration date consistent with standard licenses or registrations.

e. If the temporary licensee or registrant does not submit proof of passing the jurisprudence examination prior to the expiration of the temporary license or registration, the temporary licensee or registrant must cease practice until a standard license or registration is issued.

This rule is intended to implement Iowa Code section 272C.12.

481—572.8(153) Resident license.

572.8(1) A dentist or dental hygienist seeking permission to practice as a resident, intern or graduate student at an accredited teaching or educational institution offering advanced education courses may apply for a resident license in lieu of a permanent license.

572.8(2) Applicants for a resident license are exempt from providing evidence of current CPR certification. Applications for resident license must include the following:

a. Evidence from the dean or designated administrative officer of the accredited school confirming enrollment as a resident, intern or graduate student.

b. A signed written statement that includes the anticipated date of completion of the program from a dentist who holds an active Iowa license or faculty permit, who proposes to exercise supervision and direction over said applicant.

c. Satisfactory evidence of graduation from an accredited school of dentistry, dental hygiene, or other school approved by the board or license registration committee as authorized by the board.

d. The appropriate fee as specified in 481—Chapter 571.

e. Clinical experience or assessment as evidenced by one of the following:

(1) The applicant has practiced clinically in another state, district, territory or country within three years of the date of application; or

(2) The applicant has successfully completed a clinical examination or assessment within three years of the date of application to demonstrate ongoing clinical competency.

572.8(3) If approved, a resident license shall allow the licensee to serve as a resident, intern, or graduate student under the supervision of a licensed or permitted faculty member at an accredited school or program approved by the board.

a. A resident license will expire on the expected date of completion of the resident training program as reported on the application.

b. If a licensee leaves the institution during the anticipated term of the resident license, the license shall be considered null and void. The director of the resident training program should notify the board within 30 days of the licensee's terminating from the program.

c. A resident license may be extended past the original expected completion date of the training program at the discretion of the board or the license and registration committee as authorized by the board. A licensee who wishes to extend the expiration date of the license shall submit an extension application that includes the following:

(1) A statement explaining the need for an extension;

(2) The fee in the amount specified in 481—Chapter 571; and

(3) A statement from the director of the resident training program attesting to the progress of the resident; the new expected date of completion; and whether any warnings have been issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action.

d. The director of the resident training program should report any warnings that have been issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action.

e. A resident licensee who changes resident training programs, including the pursuit of another postgraduate degree, shall apply for a new resident license and include a statement from the program director documenting the applicant's progress.

572.8(4) No examination or continuing education will be required for this license.

This rule is intended to implement Iowa Code section 153.22.

481—572.9(153) Dental college and dental hygiene program faculty permits.

572.9(1) The board may issue a faculty permit entitling the holder to practice dentistry or dental hygiene as a faculty member within an accredited school or program and affiliated teaching facilities in lieu of a permanent license.

572.9(2) Applications for a faculty permit shall include the following:

a. Evidence from the dean or designated administrative officer of the accredited school confirming the employment of the applicant as faculty member who is not licensed to practice dentistry or dental hygiene in Iowa.

b. The nonrefundable application fees, including the fingerprint packet and background check fee as specified in 481—Chapter 571.

c. Information regarding the professional qualifications and background of the applicant, including evidence of having graduated from an accredited school or other program approved by the board or the license and registration committee as authorized by the board.

d. A completed packet to facilitate the criminal history background check by the DCI and FBI.

e. If the applicant is licensed by another jurisdiction, the applicant shall furnish evidence from the licensing board of that jurisdiction that the applicant is licensed in good standing and has not been the subject of final or pending disciplinary action.

f. The results of a self-query of the NPDB.

g. Evidence of successful completion of a jurisprudence examination pursuant to rule 481—572.15(147,153).

h. Clinical experience or assessment as evidenced by one of the following:

(1) The applicant has practiced clinically in another state, district, territory or country within three years of the date of application; or

(2) The applicant has successfully completed a clinical examination or assessment within three years of the date of application to demonstrate ongoing clinical competency.

572.9(3) A faculty permit shall expire on August 31 of every even-numbered year and may be renewed on a biennial basis. The faculty permit will be valid so long as the holder remains a faculty member at an accredited school in Iowa.

572.9(4) A faculty permit may be renewed in accordance with rule 481—572.20(147,153,272C) and 481—Chapter 573.

This rule is intended to implement Iowa Code section 153.37.

481—572.10(147,153) Requirements for issuance and renewal of a local anesthesia permit. To administer local anesthesia, a dental hygienist shall hold a current permit pursuant to 481—Chapter 576.

572.10(1) Applicants for local anesthesia permits are exempt from providing evidence of current CPR certification. Applications for a local anesthesia permit must include the following:

a. The fee for a local anesthesia permit as specified in 481—Chapter 571; and

b. Evidence that the applicant meets one of the following requirements:

(1) Successful completion, within the previous 36 months, of formal training in the administration of local anesthesia that includes training in block and infiltration anesthesia at an accredited school or other training program approved by the dental hygiene committee;

(2) Successful completion, within the previous 36 months, of a clinical examination in the administration of local anesthesia by a testing center approved by the board in accordance with rule 481—572.14(147,153); or

(3) For applicants who completed training or examination more than 36 months prior to application, evidence of formal training in the administration of local anesthesia and a statement attesting to ongoing practice within the previous 36 months in the administration of local anesthesia in another state or jurisdiction that authorizes a dental hygienist to administer local anesthesia.

572.10(2) The permit shall expire on August 31 of every odd-numbered year. To renew the permit, the dental hygienist must submit a timely application for renewal with evidence of holding an active Iowa dental hygiene license and submit the renewal fee as specified in 481—Chapter 571.

572.10(3) Failure to meet the requirements for renewal prior to November 1 following the permit's expiration will cause the permit to lapse and become invalid.

572.10(4) A permit that has lapsed may be reinstated upon the permit holder's application for reinstatement, payment of the reinstatement fee as specified in 481—Chapter 571, and evidence of a current Iowa dental hygiene license. A permit that has been lapsed for more than 36 months may be reinstated if the applicant also submits evidence of satisfying the requirements of paragraph 572.12(1) "b."

This rule is intended to implement Iowa Code sections 147.10 and 147.80 and chapter 153.

481—572.11(153) Requirements for issuance or renewal of a moderate sedation or general anesthesia permit. Pursuant to 481—Chapter 579, dentists who wish to utilize moderate sedation, deep sedation, or general anesthesia in Iowa must possess a current permit issued by the board.

572.11(1) Applications for moderate sedation or general anesthesia permits must include the following:

- a. The fee specified in 481—Chapter 571.
- b. To qualify for a moderate sedation permit, evidence of having successfully completed approved education and training, which includes the following:
 - (1) A minimum of 60 hours of instruction and management of at least 20 patients, or an accredited residency program that includes formal training and clinical experience in moderate sedation;
 - (2) Rescuing patients from a deeper level of sedation than intended, including managing the airway, intravascular or intraosseous access, and reversal medications;
 - (3) For a dentist who intends to administer moderate sedation to pediatric or American Society of Anesthesiologists (ASA) III or IV patients, an accredited residency program that includes formal training in anesthesia and clinical experience in managing pediatric or ASA III or IV patients; and
 - (4) Current Advanced Cardiac Life Support (ACLS) or Pediatric Advanced Life Support (PALS) certification.
- c. To qualify for a general anesthesia permit, evidence of having successfully completed the following education and training:
 - (1) An accredited advanced education program that provides training in moderate sedation, deep sedation and general anesthesia;
 - (2) A minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level at an accredited advanced education program;
 - (3) Formal training in airway management; and
 - (4) Current ACLS certification.

572.11(2) Prior to issuance of a new permit, all facilities where the applicant intends to provide sedation services must have passed inspection by the board or designated agent pursuant to 481—Chapter 579.

572.11(3) The applicant may be required to complete a peer review evaluation or comply with any additional requirements deemed necessary to determine competency in the administration of moderate sedation, deep sedation, or general anesthesia, if requested by the board or the Anesthesia Credentials Committee (ACC), prior to issuance of a permit.

572.11(4) Applications for a moderate sedation or general anesthesia permit will be reviewed by the ACC or the board as deemed necessary to ensure compliance with this rule and 481—Chapter 579. Following review of an application, the ACC or the board may take action, in accordance with rule 481—572.22(147,153,272C).

572.11(5) Moderate sedation and general anesthesia permits will expire on August 31 of every even-numbered year. A permit may be renewed by submitting an application for renewal, maintaining an active Iowa dental license or faculty permit, and complying with the following:

- a. Payment of the renewal fee as specified in 481—Chapter 571;

- b.* Evidence of current ACLS or PALS certification; and
- c.* Evidence of a minimum of six hours of continuing education in the area of sedation. These hours may also be applied toward the renewal of a dental license or faculty permit.

572.11(6) Failure to renew the permit prior to November 1 following its expiration will cause the permit to lapse and become invalid for practice. Permits that have lapsed may be reinstated upon submission of a new application in compliance with this rule.

This rule is intended to implement Iowa Code sections 147.10, 147.11 and 272C.3 and chapter 153.

481—572.12(153) Temporary permit.

572.12(1) The board may issue a temporary permit authorizing the permit holder to practice dentistry or dental hygiene on a short-term basis in Iowa at a specific location or locations to fulfill an urgent need, serve an educational purpose, or provide volunteer services. A temporary permit is not meant as a way to practice before a permanent license is granted or as a means to practice because the applicant does not fulfill the requirements for permanent licensure. A temporary permit may be granted on a case-by-case basis.

- a.* The board may issue a temporary permit for a specified period up to six months.
- b.* A person may be issued no more than two temporary permits to fulfill an urgent need or serve an educational purpose unless the request is prior-approved by the board.
- c.* If the permit expires, the need changes or the permit holder wishes to continue in short-term assignments in other Iowa locations, the permit holder will be required to apply for a new temporary permit or seek permanent licensure, except when volunteering dental services in accordance with this rule.
- d.* A temporary permit to provide volunteer services is restricted to free clinics or dental clinics for nonprofit organizations as described under Section 501(c)(3) of the Internal Revenue Code. Temporary permit holders may not receive compensation for dental services provided.

572.12(2) Applications for a temporary permit to fulfill an urgent need or serve an educational purpose must include the following:

- a.* Satisfactory evidence of graduation with a DDS or DMD degree for applicants seeking a temporary permit to practice dentistry, or satisfactory evidence of graduation from an accredited dental hygiene school for applicants seeking a temporary permit to practice dental hygiene.
- b.* The fee for a temporary permit to fulfill an urgent need or serve an educational purpose as specified in 481—Chapter 571.
- c.* Certification from the state board of dentistry, or equivalent authority, from a state in which the applicant has been licensed and practicing for at least three years immediately preceding the date of application. Applicants who have been the subject of final or pending disciplinary action may not be eligible for a temporary permit.
- d.* Evidence that at least one license was issued on the basis of clinical examination.
- e.* A request from those individuals or organizations seeking the applicant's services that establishes, to the board's satisfaction, justification for the temporary permit, the dates the applicant's services are needed, and the location or locations where those services will be delivered.

572.12(3) Applications for temporary permits to provide volunteer services must include the following:

- a.* The name, address, and contact information of the applicant; the location of the free clinic or dental clinic for a nonprofit organization; and the dates on which the volunteer services will be provided.
- b.* A certification of license (or substantially similar document) from the appropriate licensing board of the applicant's primary jurisdiction.
- c.* A detailed statement disclosing any pending disciplinary actions or criminal charges against the applicant.
- d.* A statement from the applicant seeking the temporary permit that the applicant will practice only in a free dental clinic or dental clinic for a nonprofit organization and that the applicant will not receive compensation directly or indirectly for providing dental services.

This rule is intended to implement Iowa Code section 153.19.

481—572.13(153) Retired volunteer license.

572.13(1) Upon application and qualification, the board may issue a retired volunteer license to a dentist or dental hygienist who has retired from the practice of dentistry or dental hygiene to enable the dentist or dental hygienist to provide volunteer dental or dental hygiene services without remuneration. A person holding a retired volunteer license must comply with the following:

- a.* Cannot charge a fee or receive compensation in any form from any person or third-party payer, including but not limited to an insurance company, health plan, or state or federal benefit program.
- b.* Cannot prescribe, administer, or dispense prescription drugs and all controlled substances.
- c.* Comply with all rules and regulations governing the practice of dentistry or dental hygiene except those related to the payment of fees, license renewal, and continuing education.

572.13(2) Applicants for a retired volunteer license are exempted from providing evidence of current CPR certification. Applications for retired volunteer licenses must include the following:

- a.* Satisfactory evidence that the applicant has retired from practice; and
- b.* Satisfactory evidence demonstrating that:
 - (1) The applicant has held an active dental or dental hygiene license within the previous five years; or
 - (2) The applicant possesses sufficient knowledge and skill to practice safely and competently if the applicant has not held an active dental or dental hygiene license within the previous five years.

572.13(3) The board will not charge an application or licensing fee for issuance of a retired volunteer license.

572.13(4) An applicant who has surrendered, resigned, converted, or allowed a license to lapse or expire as the result of or in lieu of disciplinary action is not eligible for a retired volunteer license.

572.13(5) A retired volunteer license is valid for 12 months from the date of issuance, at which time it expires and becomes invalid. A retired volunteer license holder whose license has become invalid is prohibited from the practice of dentistry or dental hygiene until a new retired volunteer license is issued.

572.13(6) A retired volunteer license is not considered to be an active license to practice dentistry or dental hygiene and cannot be converted to any regular license type.

572.13(7) A person holding an inactive Iowa dental or dental hygiene license may also hold a retired volunteer license.

572.13(8) A person holding a retired volunteer license will notify the board of any change in name or home address within seven days of the change. A copy of a certified marriage license or copy of certified court documents is required for proof of a name change.

This rule is intended to implement Iowa Code section 153.23.

481—572.14(147,153) Clinical examination required for licensure.

572.14(1) Pursuant to Iowa Code section 147.34, the board and dental hygiene committee will approve examinations for the purposes of licensure. Applicants shall comply with the following:

- a.* Examinees must meet the requirements for testing and follow procedures established by each respective testing agency. Examinees must take all parts offered by the respective testing agency, including the periodontal scaling component for dental examinees if offered by the testing agency.
- b.* The examinee must attain a passing score on each clinical and written portion of the examination.
- c.* Applicants for licensure pursuant to rule 481—572.3(147,153) must provide evidence of successful completion of a board-approved clinical examination unless exempted by rule.

572.14(2) For the purposes of licensure, the board accepts patient-based and simulated clinical examinations administered by the testing agencies as follows:

- a.* Central Regional Dental Testing Service, Inc. (CRDTS);
- b.* CDCA-WREB-CITA, which was previously the Commission on Dental Competency Assessments (CDCA), the Western Regional Examining Board (WREB), and the Council of Interstate Testing Agencies, Inc. (CITA); and

c. The States Resources for Testing and Assessments (SRTA), previously known as the Southern Regional Testing Agency, Inc.

572.14(3) The board on its own motion may monitor or review any clinical examinations already approved by the board. Upon evidence that a clinical examination fails to satisfactorily demonstrate clinical competency to practice dentistry or dental hygiene, the board may revoke the approval of a clinical examination.

572.14(4) For the purposes of counting examination failures, the board and dental hygiene committee may utilize policies adopted by each respective testing agency. An examinee will only need to retake those parts of the examination that the examinee failed. However, an examinee who has not passed all parts of the examination within the time frame specified by the testing agency may be required to retake the entire examination at the discretion of the testing agency. The examinee should refer to the policies of the testing agency to determine applicable standards and time frames.

572.14(5) Following a second or subsequent failure, an examinee must complete additional formal education or clinical experience at an accredited school or other program approved by the board. Ongoing education and training completed by the examinee prior to graduation from an accredited school will be accepted for the purposes of remediation. The applicant will provide evidence of remediation upon request.

a. Prior to the third examination attempt, an examinee must complete additional formal education or clinical experience.

b. Prior to the fourth examination attempt, an examinee must successfully complete a minimum of 40 hours of formal education or clinical experience.

c. For subsequent examination attempts, an examinee must successfully complete a minimum of 40 hours of formal education or clinical experience following each failure.

572.14(6) If an examinee applies for an examination after having failed any other state or regional examination, the failure shall be counted for the purposes of retakes.

This rule is intended to implement Iowa Code sections 147.34, 147.36, 272C.3, 272C.9, and 272C.13 and chapter 153.

481—572.15(147,153) Jurisprudence examination.

572.15(1) An applicant for a dental or dental hygiene license, faculty permit, or registration as a dental assistant must successfully complete a board-approved examination in the area of Iowa jurisprudence with a minimum score of 75 percent. An examinee may be required to meet such other requirements as may be imposed by the board's approved testing locations.

572.15(2) The following examinations are approved for the purposes of this chapter:

a. Board-approved examinations;

b. Examinations administered by accredited schools or programs located in Iowa; and

c. Board-approved continuing education courses that include a posttest examination and that have been approved by the board.

This rule is intended to implement Iowa Code sections 147.34, 147.36, 272C.3, 272C.9 and 272C.13 and chapter 153.

481—572.16(147,153) Examinations for registration or qualification.

572.16(1) An applicant for dental assistant registration must successfully complete examinations as required pursuant to rule 481—572.5(153).

572.16(2) An application for radiography qualification must successfully complete the examination as required pursuant to rule 481—572.6(136C,153).

572.16(3) An applicant may complete a single comprehensive examination or complete separate board-approved examinations in the required areas.

a. The following examinations are approved for the purposes of this subrule:

(1) Board-approved examinations;

(2) The DANB's Infection Control Examination (ICE);

(3) The DANB's Radiation Health and Safety (RHS) Examination;

- (4) Examinations administered by accredited schools' dental assisting programs; or
- (5) Board-approved continuing education courses that include posttest examination.
- b.* A score of 75 percent or better on the board-approved examinations will be considered successful completion of the examination. The board also accepts the passing standard established by the DANB for applicants who take the ICE or RHS examination.
- c.* An examinee may be required to meet such other requirements as may be imposed by the board's approved testing locations.

This rule is intended to implement Iowa Code sections 147.34, 147.36, 272C.3, 272C.9 and 272C.13 and chapter 153.

481—572.17(147,153,272C) Renewal of a license, permit, registration, or qualification.

572.17(1) To continue practicing in Iowa, a license, permit, registration, or qualification must be renewed prior to its expiration date.

- a.* Dental hygiene licenses, local anesthesia permits, dental assistant registrations, and dental radiography qualifications expire on August 31 of every odd-numbered year.
- b.* Dental licenses, faculty permits, moderate sedation permits, and general anesthesia permits expire August 31 of every even-numbered year.

572.17(2) The department will email a renewal notice to each licensee, registrant and permit holder at the most recent email address of record.

a. The licensee, registrant, or permit holder is responsible for successfully completing renewal prior to the license's, registration's or permit's expiration. Failure to receive the renewal notice does not eliminate the responsibility for submitting a timely-filed renewal in order to continue practicing in the state of Iowa.

b. Renewal applications are not considered timely and complete until received by the department and accompanied by all material required for renewal and all applicable fees. Incomplete applications will not be issued renewal.

572.17(3) Applications for renewal must include the following:

- a.* The appropriate fee, including a penalty for late renewal when applicable, as specified in 481—Chapter 571 must accompany the application for renewal.
- b.* Licensees, registrants, and permit holders are required to complete continuing education in accordance with 481—Chapter 573 unless claiming a permissible exemption.

572.17(4) Iowa-licensed nurses applying for renewal of a radiography qualification are exempt from providing evidence of current CPR certification.

This rule is intended to implement Iowa Code sections 147.10, 147.25 and 147.80 and chapters 136C, 153 and 272C.

481—572.18(147,153,272C) Grounds for nonrenewal. The board may refuse to renew a license, registration, permit or qualification on the following grounds:

572.18(1) After proper notice and hearing for a violation of these rules or Iowa Code chapter 147, 153 or 272C.

572.18(2) Failure to pay required fees.

572.18(3) Failure to obtain required continuing education.

572.18(4) Failure to maintain current certification in CPR that includes a hands-on component, or ACLS or PALS certification when required by rule.

572.18(5) Receipt of a certificate of noncompliance from the child support recovery unit of the department of health and human services in accordance with 481—Chapter 8.

This rule is intended to implement Iowa Code section 153.31 and chapters 147, 252J and 272C.

481—572.19(147,153,272C) Late renewal. Failure to renew a license, permit, registration or qualification prior to the expiration date will result in the assessment of a late fee in the amount specified in 481—Chapter 571 in addition to the renewal fee.

572.19(1) Failure to renew prior to September 1 following expiration will result in the assessment of a late fee in the amount specified in 481—Chapter 571 in addition to the renewal fee.

572.19(2) Failure to renew prior to October 1 following expiration will result in the assessment of a late fee in the amount specified in 481—Chapter 571 in addition to the renewal fee.

572.19(3) Failure to renew prior to November 1 following expiration will cause the license, permit, registration, or qualification to lapse and become invalid. A licensee, permit holder, or registrant whose license, permit, registration, or qualification has lapsed is prohibited from the practice of dentistry, dental hygiene, dental assisting or dental radiography until the license, permit, registration or qualification is reinstated in accordance with rule 481—571.20(147,153,272C).

This rule is intended to implement Iowa Code sections 147.10, 147.11 and 272C.2.

481—572.20(147,153,272C) Reinstatement of a lapsed license, permit, registration or qualification.

572.20(1) A lapsed license, permit, registration or qualification may be reinstated at the discretion of the board. Reinstatement applications must include the following:

a. Payment of a reinstatement application fee plus one past-due renewal fee as specified in 481—Chapter 571;

b. For reinstatement of a lapsed dental or dental hygiene license, a completed criminal history background packet, including the fee as specified in 481—Chapter 571, to facilitate a criminal history background check by the DCI and the FBI;

c. Evidence of completion of continuing education required for renewal in accordance with 481—Chapter 573 that has not been previously reported to the board, or evidence of the full- or part-time practice of the profession in another state, district or territory for a minimum of two years within the previous five-year period;

d. If licensed or registered in another state, district or territory, certification by the licensing authority of the license or registration status and that the licensee or registrant has not been the subject of final or pending disciplinary action;

e. A detailed statement disclosing any disciplinary actions, investigations, claims, complaints, judgments, settlements or criminal charges.

572.20(2) The board or dental hygiene committee may require a licensee or registrant who is applying for reinstatement, and who has not actively practiced clinically within five years immediately preceding the date of application, to successfully complete a board-approved examination or assessment for the purpose of ensuring that the applicant possesses sufficient knowledge and skill to practice safely.

This rule is intended to implement Iowa Code sections 147.10, 147.11 and 272C.2.

481—572.21(136C,153) Reinstatement of lapsed radiography qualification.

572.21(1) A registered dental assistant or licensed nurse whose radiography qualification has lapsed may have the radiography qualification reinstated at the discretion of the board. In addition to the application requirements specified in rule 481—572.20(147,153,272C), applicants for reinstatement must also submit evidence of the following:

a. Evidence of current registration as a dental assistant or an Iowa nursing license; and

b. Evidence of one of the following:

(1) If the radiography qualification has been lapsed for less than five years, a minimum of two hours of continuing education in the subject area of dental radiography, taken within the previous two-year period;

(2) If the radiography qualification has been lapsed for more than five years, the applicant has retaken and successfully completed a board-approved examination in dental radiography; or

(3) Current radiography qualification issued by another state, district or territory, and a statement detailing the clinical practice in dental radiography in that jurisdiction for a minimum of two years in the previous five-year period.

572.21(2) Iowa-licensed nurses applying for reinstatement of a radiography qualification are exempt from providing evidence of current CPR certification.

This rule is intended to implement Iowa Code sections 147.10, 147.25 and 147.80 and chapters 136C, 153 and 272C.

481—572.22(147,153,272C) Grounds for action against a license, permit, registration or qualification.

572.22(1) Following review of an application, including applications for reinstatement, the board may take action against a license, permit, registration or qualification if the board finds that any of the following apply to the applicant:

- a.* Has been the subject of disciplinary action taken against a license or registration in another state, district, or territory, and the violations that resulted in such action would also be grounds for discipline in Iowa in accordance with 481—Chapter 581;
- b.* Failed to justify the need for a temporary permit;
- c.* Practiced outside the scope of practice as permitted by Iowa law; or
- d.* Found probable cause for any of the grounds for which licensure or registration may be subject to disciplinary action, including revocation or suspension, as specified in Iowa Code chapters 147, 153 and 272C and 481—Chapter 581.

572.22(2) The board may take action against an applicant for license, permit, registration or qualification as follows:

- a.* Impose applicable restrictions or sanctions pursuant to rule 481—581.1(147,153,272C) as a condition of licensure, permit, registration, qualification or reinstatement;
- b.* Issue a notice of intent to cancel a temporary permit or retired volunteer license;
- c.* Issue a notice of intent to deny issuance or reinstatement of a license, permit, registration or qualification;
- d.* Initiate disciplinary action against the license, permit, registration or qualification; or
- e.* Initiate other confidential action as permitted by Iowa law.

572.22(3) If the board pursues formal action against an applicant pursuant to this rule, the board will promptly notify the applicant by certified mail at the applicant's last-known address or by personal service.

572.22(4) The provisions of 481—Chapter 506 shall govern a contested case proceeding.

572.22(5) The procedure for appealing a decision of the board in a contested case is set forth in 481—Chapter 506.

This rule is intended to implement Iowa Code chapters 147, 153 and 272C.

ARC 8495C

INSPECTIONS AND APPEALS DEPARTMENT[481]**Notice of Intended Action****Proposing rulemaking related to dental continuing education
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt new Chapter 573, "Dental Continuing Education," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 153.33.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272C and sections 147.10, 147.11, 153.15, and 153.39.

Purpose and Summary

This proposed rulemaking promulgates Chapter 573 and implements Iowa Code section 153 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code section 153.33 provides that rulemaking authority.

This rulemaking implements Iowa Code sections 147.10, 147.11, 153.15A, and 153.39 and chapter 272C by providing Iowans, licensees, and their employers with information relevant to continuing education. This chapter provides general requirements such as the minimum number of hours of education overall, biennium renewal period, documentation, acceptable programs and activities, and extensions and exemptions. This chapter also provides requirements for mandatory reporter, cardiopulmonary resuscitation (CPR), infection control, jurisprudence, and opioid training. The intended benefit of continuing education is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 22, 2024

There were no public comments received with regard to this chapter and no changes were made as a result.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Dental Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#
January 3, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 573:

CHAPTER 573
DENTAL CONTINUING EDUCATION

481—573.1(153) Continuing education requirements.

573.1(1) Prior to renewal, licensees and registrants are responsible for completing continuing education as follows unless claiming a permissible extension or exemption:

- a.* Each person who holds a license or faculty permit to practice dentistry: a minimum of 30 hours.
- b.* Each person who holds a license or faculty permit to practice dental hygiene: a minimum of 30 hours.
- c.* Each person registered to practice dental assisting: a minimum of 20 hours.
- d.* Each registrant or licensed nurse who holds a radiography qualification: a minimum of two hours in the area of dental radiography. These hours may also be applied toward the requirements as stipulated in paragraph 573.1(1) "c."
- e.* Pursuant to Iowa Code chapters 232 and 235B, mandatory reporter training for child abuse and dependent adult abuse. Licensees and registrants who regularly provide or assist with dental services to patients in Iowa are responsible for completing mandatory reporter training within six months of employment or prior to the expiration of a current certificate.
 - (1) Licensees and registrants who regularly provide dental services to children shall complete training pertaining to identifying and reporting abuse in children. Completion of this component of the mandatory reporter training results in two hours of continuing education credit.
 - (2) Licensees and registrants who regularly provide dental services to adults shall complete training pertaining to identifying and reporting abuse in dependent adults. Completion of this component of the mandatory reporter training results in two hours of continuing education credit.
- f.* Pursuant to 481—Chapter 572, cardiopulmonary certification, which results in a maximum of three hours of continuing education credit. Certification in pediatric advanced life support (PALS) or advanced cardiac life support (ACLS) results in hour-for-hour credit.
- g.* A minimum of one hour of continuing education in the area of infection control. The course content should focus on infection control standards, as required by the U.S. Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services.
- h.* A minimum of one hour of continuing education in the area of Iowa jurisprudence related to the practice of dentistry, dental hygiene and dental assisting.
- i.* As a condition of license renewal, for a licensed dentist who has prescribed opioids to a patient during the biennium renewal period, a minimum of one hour of continuing education on opioids.
 - (1) This training shall include guidelines for prescribing opioids, including recommendations on limitations of dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacological therapy options. If the continuing education did not cover the U.S. Centers for

Disease Control and Prevention guideline for prescribing opioids for chronic pain, the licensee shall read the guideline prior to license renewal.

(2) A licensed dentist who did not prescribe opioids during the biennium renewal period may attest that the dentist is not subject to this requirement due to the fact that the dentist did not prescribe opioids during the time period.

573.1(2) Licensees and registrants may apply completed continuing education hours that meet the requirements of paragraphs 573.1(2) “d” through “h” toward the requirements for renewal of the license or registration.

573.1(3) The continuing education compliance period shall be the 24-month period commencing September 1 and ending on August 31 of the renewal cycle, except when applying continuing education hours from the previous renewal period in accordance with this rule.

573.1(4) Licensees and registrants may obtain continuing education credit by attending and participating in continuing education activities that meet the requirements of this chapter.

573.1(5) Pursuant to Iowa Code section 272C.2(2) “h,” licensees and registrants who complete continuing education hours in excess of the requirements for renewal may apply up to 50 percent of the required hours to the following renewal period. Hours may be carried forward as follows:

a. Licensees and faculty permit holders may apply a maximum of 15 hours from the previous renewal period.

b. Registered dental assistants may apply a maximum of ten hours from the previous renewal period.

c. Licensees and registrants may not carry forward hours for courses in the areas of cardiopulmonary resuscitation (CPR), infection control, jurisprudence, dental radiography, or opioids completed during the previous renewal period.

481—573.2(153) Documentation of continuing education hours.

573.2(1) Licensees and registrants are responsible for obtaining evidence of successful completion for courses attended. The course sponsor should verify credit hours on the proof of attendance.

573.2(2) When applying for renewal, licensees and registrants will report the number of continuing education credit hours completed unless claiming an exemption pursuant to rule 481—573.5(153).

573.2(3) Every licensee and registrant should maintain a record of all courses attended by keeping evidence of continuing education for four years following renewal. The board reserves the right to audit the continuing education hours reported by any licensee or registrant. If selected for audit, the licensee or registrant is responsible for submitting copies of the certificates or other evidence.

481—573.3(153) Acceptable programs and activities.

573.3(1) A continuing education activity is deemed to be acceptable if it meets the following criteria:

a. It constitutes an organized program of learning that contributes directly to the professional competency of the licensee or registrant and is of value to dentistry, is applicable to oral health care, or otherwise pertains to patient care;

b. It pertains to common subjects or other subject matters that relate to the practice of dentistry, dental hygiene, or dental assisting and that are intended to review or update knowledge of new or existing concepts and techniques and enhance the dental health of the public; and

c. It is developed or conducted by individuals who have sufficient education, training and experience to be knowledgeable in the subject matter. Continuing education activities that are developed or approved for continuing education credit by a nationally recognized organization, such as the American Dental Association, the Academy of General Dentistry or another dental specialty organization, would meet these criteria.

573.3(2) Types of activities acceptable for continuing dental education credit include:

a. A dental science course that includes topics that address the clinical practice of dentistry, dental hygiene, dental assisting and dental public health.

b. Courses pertaining to the practice of dentistry that include areas such as recordkeeping, medical conditions that may have an effect on oral health, ergonomics related to clinical practice, the Health Insurance Portability and Accountability Act (HIPAA), risk management, sexual boundaries, communication with patients, Occupational Safety and Health Administration (OSHA) regulations, and the discontinuation of practice related to the transition of patient care and patient records.

c. Sessions attended at a convention-type meeting that includes a variety of concurrent educational experiences directly related to the practice of dentistry. Attendees at a multiday convention may receive a maximum of 1.5 hours of credit per day with the maximum of 6 hours of credit allowed per biennium.

(1) Attendance of table clinic sessions will result in two hours of credit as verified by the sponsor, provided the subject matter conforms to this chapter.

(2) Presentation of an original table clinic session will result in four hours of continuing education credit as verified by the sponsor, provided the subject matter conforms to this chapter.

d. Postgraduate study relating to health sciences, which will result in 15 hours of continuing education per semester.

e. Successful completion of a recognized specialty examination or the Dental Assisting National Board (DANB) examination, which will result in 15 hours of continuing education credit.

f. Self-study activities, which are permitted with a maximum of 12 hours of continuing credit per renewal period.

g. Original presentation of continuing dental education courses, which will result in credit double that which is awarded to participants. Additional credit will not be granted for the repeating of presentations within the renewal period.

h. Teaching. Licensees and registrants who serve as adjunct faculty at an accredited school may claim continuing education credit for teaching that is part of the normal academic duties. Licensees and registrants may apply a maximum of six hours of credit per renewal period.

i. Publication of scientific articles in professional journals related to dentistry, dental hygiene, or dental assisting, which will result in 5 hours of continuing education credit per article with a maximum of 20 hours allowed per renewal period.

j. Delivery of volunteer dental services without compensation through a free clinic, the purpose of which is the delivery of health care services to low-income or underserved individuals. Licensees and registrants may claim one hour of continuing education credit for every three hours of volunteer dental services.

(1) The volunteer hours must be verified by the free clinic or the organization sponsoring the event where the volunteer services are provided.

(2) Licensees and faculty permit holders may apply a maximum of six hours of credit per renewal period.

(3) Registrants may apply a maximum of four hours of credit per renewal period.

573.3(3) Credit may be given for other continuing education activities upon approval by the board.

573.3(4) Continuing education courses in the areas of expanded functions or sedation must receive prior approval from the board, or committee approval as authorized, pursuant to 481—Chapter 577 and 481—subrule 572.11(1).

481—573.4(153) Unacceptable programs and activities. Unacceptable subject matter and activity types for the purposes of renewal include but are not limited to personal development, business aspects of practice, business strategy, financial management, marketing, sales, practice growth, personnel management, insurance, and collective bargaining. While desirable, those subjects and activities are not applicable to dental skills, knowledge, and competence. Therefore, such courses will receive no credit toward renewal.

481—573.5(153) Extensions and exemptions.

573.5(1) The board may, in individual cases involving physical disability or illness, grant an extension of the time to meet, or an exemption from, the continuing education requirements. Requests for extension or exemption should include a statement from a licensed health care professional

confirming the disability or illness that resulted in the need for such a request. The board may, as a condition of the exemption, require the applicant to make up a certain portion or all of the continuing education requirements.

573.5(2) Extensions of or exemptions for continuing education requirements will be considered by the board on an individual basis. Licensees or registrants are exempt from the continuing education requirements for:

- a. Periods that the person serves honorably on active duty in the military services;
- b. Periods that the person practices the person's profession in another state, district, or territory that has a continuing education requirement for which the licensee or registrant meets all requirements;
- c. Periods that the person is a government employee working in the person's licensed or registered specialty and assigned to duty outside the United States;
- d. Other periods of active practice and absence from the state approved by the board; or
- e. The first renewal period, or portion thereof, following original issuance of the license, permit or registration.

481—573.6(153) Continuing education sponsors.

573.6(1) An organization or person that desires to offer continuing education courses or programs or other continuing education activities may do so provided that the sponsor complies with the requirements of this chapter. The board may request a sponsor to provide information about continuing education activities it offers, including names and qualifications of instructors.

573.6(2) The person or organization sponsoring continuing education activities is responsible for keeping a written record of the Iowa licensees or registrants in attendance, maintain the written record for a minimum of five years, and submit the record to the board upon the request. The sponsor of the continuing education activity will also provide proof of attendance and the number of credit hours awarded to the licensee or registrant who participates in the continuing education activity.

573.6(3) Programs sponsored by individuals or institutions for commercial or proprietary purposes, especially programs in which the speaker advertises or urges the use of any particular dental product or appliance should notify attendees of such. Sponsors may offer noncredit courses provided the participants are informed that no credit will be awarded.

481—573.7(153) Review of programs or sponsors. The board reserves the right to monitor or review any continuing education program offered to Iowa licensees and registrants. Upon evidence of a failure to meet the requirements of this chapter, the board may deny credit for the purposes of renewal. The board may deny all or any part of the hours granted by the program. A provider that wishes to appeal the board's decision regarding continuing education credit may file an appeal within 30 days of the board's decision. A timely appeal initiates a contested case proceeding. The contested case will be conducted pursuant to Iowa Code chapter 17A and 481—Chapter 506. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

481—573.8(153) Noncompliance with continuing dental education requirements. It is the licensee's or registrant's personal responsibility to comply with these rules. Failure to comply may result in disciplinary action by the board, including nonrenewal of the license or registration.

481—573.9(153) Dental hygiene continuing education. The dental hygiene committee, in its discretion, may make recommendations to the board for approval or denial of requests pertaining to dental hygiene education. The following items will be forwarded to the dental hygiene committee for review:

1. Requests by dental hygienists for waivers, extensions and exemptions of the continuing education requirements.
2. Appeals of denial of dental hygiene continuing education and conduct of hearings as necessary.

These rules are intended to implement Iowa Code sections 147.10, 147.11, 153.15A and 153.39 and chapter 272C.

ARC 8496C**INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action****Proposing rulemaking related to general requirements and standards of practice
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt Chapter 574, “General Requirements and Standards of Practice,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 153, and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147, 153, and 272C and sections 232.69 and 235B.16.

Purpose and Summary

These rules provide requirements for licensees with regard to displaying a license, information regarding name or address changes, mandatory reporter training and reporting, and requirements for advertising. These rules set the standard for ethical practice around patient acceptance, consultation and referrals, discontinuation of practice, personnel use, recordkeeping, teledentistry, and representation of care and fees. Requirements for public health supervision, including minimum clinical experience, supervision agreements and reporting, and those duties that can be delegated to a dental hygienist in this setting, are also included in this chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

There were no public comments received with regard to this chapter. Board staff did notice clarification was needed with regard to retention of pediatric records and added that language to match that for adult records.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Dental Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#
January 3, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 574:

CHAPTER 574
GENERAL REQUIREMENTS AND STANDARDS OF PRACTICE

481—574.1(153) Licensed or registered personnel. In accordance with Iowa Code chapters 147 and 153, persons engaged in the practice of dentistry, dental hygiene or dental assisting in Iowa must be licensed by the board as a dentist or dental hygienist or registered as a dental assistant.

This rule is intended to implement Iowa Code chapters 147 and 153.

481—574.2(147,153) Display of current license, registration, permit or qualification. In accordance with Iowa Code section 147.7, the certificate of every license, permit, registration or qualification and evidence of current renewal must be prominently displayed at each permanent practice location.

574.2(1) Additional certificates may be obtained from the board. Evidence of renewal may be obtained from the board's online licensing database at no cost or by request to the board. The board may assess a fee for a replacement certificate or evidence of renewal pursuant to 481—Chapter 571.

574.2(2) Practice locations may display evidence of license, permit, registration or qualification by electronic means in conjunction with primary source verification.

This rule is intended to implement Iowa Code chapter 147.

481—574.3(147,153,272C) Change of name or address.

574.3(1) *Change of name.* Each person licensed or registered by the board must notify the board and submit evidence of a legal name change within 60 days of such change.

574.3(2) *Change of address.* Pursuant to Iowa Code section 147.9, each person licensed or registered by the board must notify the board within 60 days of changes in email for the purpose of electronic communications from the board, primary mailing address, and all full- and part-time practice locations.

481—574.4(147,153,272C) Other requirements.

574.4(1) *Child and dependent adult abuse training.* Licensees or registrants who regularly examine, attend, counsel or treat children or adults in Iowa must obtain mandatory training in child and dependent adult abuse identification and reporting in accordance with Iowa Code sections 232.69 and 235B.16 and 481—Chapter 573.

574.4(2) *Cardiopulmonary resuscitation.* Licensees and registrants may practice in Iowa if they obtain and maintain current certification in a cardiopulmonary resuscitation (CPR) course that included a hands-on component. The board reserves the right to request that licensees and registrants provide evidence of current certification.

This rule is intended to implement Iowa Code sections 232.69 and 235B.16 and chapter 153.

481—574.5(153) Use of personnel. Dentists are obligated to protect the health of their patients by assigning to qualified personnel only those duties that can be legally delegated. Dentists will supervise the work of all personnel working under their direction and control.

481—574.6(153,272C) Patient acceptance. Dentists, in serving the public, may exercise reasonable discretion in accepting patients; however, pursuant to state and federal law, dentists may not discriminate against legally protected classes by refusing to accept patients into their practice or denying dental service to patients for reasons such as race, creed, sex or national origin.

481—574.7(153) Emergency service. Emergency services in dentistry are deemed to be those services necessary for the relief of pain or to thwart infection and prevent its spread. When consulted in an emergency by patients, dentists shall make reasonable arrangements for emergency care.

481—574.8(153) Consultation and referral.

574.8(1) Dentists are responsible for meeting the minimum standard of care and should seek consultation or referral, if possible, whenever the welfare of patients will be safeguarded or advanced by utilizing those practitioners who have special skills, knowledge and experience.

574.8(2) The specialist or consulting dentist shall comply with the following:

a. Upon completion of the consultation or specialty treatment, return the patient, unless the patient expressly states a different preference, to the referring dentist or, if none, to the dentist of record for future care.

b. When there is no referring dentist, upon completion of the treatment, inform the patient when there is a need for further dental care.

574.8(3) A dentist who has a patient referred for a second opinion regarding a diagnosis or treatment plan should render the requested second opinion in accordance with these rules. In the interest of the patient being afforded quality care, the dentist rendering the second opinion should not have a vested interest in the ensuing recommendation.

481—574.9(153,272C) Patient records.

574.9(1) Patient records may be entered or retained electronically or by other means. Dentists must maintain patient records in a manner consistent with the protection of the welfare of the patient and comply with the following:

- a.* Preserve and maintain the confidentiality of patient records as required by state and federal law.
- b.* Ensure that all entries into patient records are permanent, timely, accurate, legible, and easily understandable.
- c.* Update and correct errors in the patient record electronically, or legibly in ink, with no erasures or white-outs. If incorrect information is placed in the record, cross out the error with a single nondeleting line and include the initials or other means of identification for the licensee or registrant who updated the record.
- d.* Safeguard the records from destructive elements.
- e.* Maintain a duplicate hard copy or use an unalterable record when electronic records are kept.

574.9(2) Dentists will create and maintain dental records for each patient that contain all of the following:

- a.* Patient information that includes the following:
 - (1) Name, date of birth, address, and, if a minor, name of parent or guardian.
 - (2) Name and telephone number of person to contact in case of emergency.
- b.* Dental and medical history information sufficient to support the recommended treatment plan from the patient or the patient's parent or guardian.
- c.* Patient's stated reasons related to oral health when a patient presents with a chief complaint.
- d.* Dental records shall include chronological entries, including dates and descriptions of the following:

- (1) Clinical examination findings, tests conducted, and a summary of all pertinent diagnoses;
- (2) Plan of intended treatment and treatment sequence;
- (3) Services rendered and any treatment complications;
- (4) All radiographs, study models, and periodontal charting, if applicable;
- (5) Name, quantity, and strength of all drugs dispensed, administered, or prescribed; and
- (6) Name of dentist, dental hygienist, or any other auxiliary, who performs any treatment or service or who may have contact with a patient regarding the patient's dental health.
- e.* Documentation, at a minimum, of informed consent that includes an overview of the discussion of proposed procedure(s), treatment options, potential complications and known risks, and patient's consent to proceed with treatment.

574.9(3) Transfer of records. Upon request of the patient or patient's legal guardian, the dentist shall furnish copies of the complete dental records, including copies of the radiographs that are of diagnostic quality.

- a.* The dentist may not refuse to transfer records for any reason, including but not limited to nonpayment of any fees.
- b.* The dentist may charge a nominal fee for duplication of records.

481—574.10(153) Teledentistry. Only dentists, dental hygienists, or dental assistants currently licensed or registered by the board may use teledentistry to provide dental care to patients located in Iowa. This rule establishes the standards of practice for teledentistry.

574.10(1) "Teledentistry" means a dentist is providing or supervising dental services using technology when the patient is in another location.

574.10(2) A dentist may not provide teledentistry services to a patient based solely on the responses to an electronic questionnaire consisting of a static set of questions.

574.10(3) The standard of dental care is the same whether a patient is seen in person or through a teledentistry encounter.

- a.* The use of teledentistry is not an expansion of the scope of practice for dental hygienists or dental assistants.

b. A dentist may only use teledentistry if utilizing evidence-based standards of practice and practice guidelines to ensure patient safety, quality of care, and positive outcomes.

574.10(4) When teledentistry will be utilized, a dentist, in addition to the requirements of rule 481—574.8(153), is responsible for ensuring informed consent covers the following:

a. A description of the types of dental care services provided via teledentistry, including limitations on services;

b. The identity, contact information, practice location, licensure, credentials, and qualifications of all licensees and registrants involved in the patient's dental care, which should be publicly displayed on a website or provided in writing to the patient; and

c. Precautions for technological failures or emergency situations.

574.10(5) A dentist may only use teledentistry to conduct an examination for a new patient or for a new diagnosis if the examination is conducted in accordance with evidence-based standards of practice to sufficiently establish an informed diagnosis.

a. A dentist shall not conduct a dental examination using teledentistry if the standard of care necessitates an in-person dental examination.

b. Once an examination has been conducted, a dentist may delegate the services to be provided by a licensed dental hygienist or registered dental assistant. A dentist shall not delegate expanded functions when teledentistry is being utilized.

c. A dentist may only delegate services to licensees and registrants employing the levels of supervision as permitted in this chapter and 481—Chapters 570, 575, 576 and 577.

d. A supervising dentist may authorize the use of teledentistry in conjunction with public health supervision.

574.10(6) A dentist may only use teledentistry if the dentist has adequate knowledge of the nature and availability of local dental resources to provide appropriate follow-up care as needed. A dentist shall refer a patient to an acute care facility or an emergency department when necessary for the safety of the patient or in the case of emergency.

574.10(7) A teledentistry encounter shall be clearly characterized as such in a patient record.

574.10(8) All dentists, dental hygienists, and dental assistants shall ensure that the use of teledentistry complies with the privacy, breach and security requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 CFR Part 160, Part 162, and Part 164, and any amendments of as of August 30, 2024.

481—574.11(153) Public health supervision allowed. A dentist who meets the requirements of this rule may provide public health supervision to a dental hygienist or registered dental assistant if the dentist has an active Iowa license and the services are provided in public health settings as defined in rule 481—570.1(153).

574.11(1) *Minimum clinical practice required.* A licensed dental hygienist or registered dental assistant is eligible to practice under public health supervision and provide services if the hygienist or assistant has an active license or registration and a minimum of one year of clinical practice experience.

574.11(2) *Public health supervision agreements.* When working under a public health supervision relationship, a dental hygienist or dental assistant shall enter into a written agreement with a dentist that addresses and complies with the following items:

a. Specify the location or locations where the public health services will be provided.

b. Include the preferred method of contact for ongoing communication and consultation between the dental hygienist or dental assistant.

c. Have age- and procedure-specific standing orders for the performance of services. The standing orders should include consideration for medically compromised patients and medical conditions for which the standard of care would dictate that a dental evaluation occur prior to the provision of services.

d. Specify a period of time in which an examination by a dentist must occur prior to providing further services. This examination requirement does not apply to educational services, assessments, screenings, and fluoride if specified in the supervision agreement.

e. Specify whether the agreement permits the dental hygienists to apply silver diamine fluoride. The supervision agreement may include provisions for use of silver diamine fluoride if the dentist and the dental hygienist complete board-approved training and the provisions comply with board-approved protocols.

f. Specify a procedure for creating and maintaining dental records for the patients that are treated by the dental hygienist or dental assistant, including where these records are to be located.

g. Review the written agreement a minimum of once every two years, and maintain a copy of the agreement for reference.

h. File a copy of the agreement with dental and oral health program of the department of health and human services within 30 days of entering into or updating an agreement and provide a copy of the agreement to the board upon request.

574.11(3) *Dental hygiene and dental assistant services.* A dental hygienist or dental assistant may provide the services specified in the public health supervision agreement pursuant to the following:

a. A dental hygienist may provide services that fall within the scope of practice pursuant to 481—Chapter 576, except for the administration of local anesthesia or nitrous oxide inhalation analgesia.

b. A registered dental assistant providing services under public health supervision may perform all extraoral duties, take dental radiographs, assist with intraoral suctioning, use a curing light and take images using an intraoral camera.

c. Each patient shall sign a consent form that clarifies that dental public health services do not take the place of regular dental checkups at a dental office and are meant for people who otherwise would not have access to dental services.

d. After receiving dental public health services, the dental hygienist or dental assistant will provide to the patient, parent or guardian a written plan for referral to a dentist and assessment of further dental treatment needs.

574.11(4) *Reporting requirements.* Each dental hygienist or dental assistant who rendered services under public health supervision at any time during the calendar year is obligated to complete a summary report at least annually or at the completion of a program. The dental hygienist or dental assistant will file the report with the dental and oral health program of the department of health and human services to assess the impact of the program.

a. The report filed by each dental hygienist should include, at a minimum, information related to the number of patients seen and services provided.

b. The report filed by each dental assistant should include, at a minimum, information related to the number of patients seen, the services provided to patients and the infection control protocols followed at each public health location. The department will provide summary reports to the board on an annual basis.

c. The dental and oral health program should provide summary reports to the board annually or upon request.

This rule is intended to implement Iowa Code chapter 153.

481—574.12(153) Representation of treatment and fees. Licensees and registrants shall not represent the care being rendered to their patients or the fees being charged for providing the care in a false or misleading manner.

574.12(1) The following billing practices are deemed to constitute deception, misrepresentation, overbilling, fraud or a combination thereof:

a. Accepting a third-party payment under a copayment plan as payment in full and not collecting the patient's portion without disclosing that to the third-party payer.

b. Increasing a fee to a patient merely because the patient has insurance.

c. Submitting a claim form to a third party and knowingly reporting incorrect treatment dates.

d. Describing a dental procedure incorrectly on a third-party claim form in order to receive a greater payment or intentionally making a noncovered procedure appear to be a covered procedure.

e. Recommending or performing unnecessary dental services or procedures.

f. Billing for services not rendered. A dentist may bill for those services that have started or been rendered, for actual costs incurred in the treatment of the patient, or for missed appointments.

g. Billing or drawing on a patient's line of credit prior to services being started or rendered. A dentist may bill or draw on a patient's line of credit for those services that have been rendered or for actual costs incurred in the treatment of the patient.

574.12(2) A dentist may allow patients to prepay for services, in whole or in part, on a voluntary basis.

574.12(3) Payments accepted by a dentist under a government-funded program, a sponsored access program, or a participating agreement entered into under a program of a third party are not considered as evidence of overbilling when determining whether a charge to a patient or to another third party on behalf of a patient not covered under any of these programs constitutes overbilling under this rule.

481—574.13(153) Retention of patient records and discontinuance of practice.

574.13(1) *Retention of dental records.* A dentist shall maintain a patient's dental record for a minimum period of time as follows:

- a.* For adults, six years after the date of last examination, prescription, or treatment.
- b.* For minors, either until the patient reaches the age of nineteen, or six years after the date of last examination, prescription, or treatment, whichever is longer.
- c.* For study models and casts, six years after the date of completion of treatment. Alternatively, one year after completion of treatment, study models and casts may be provided to the patient for retention.

574.13(2) *Discontinuation of practice.* When a dentist intends to discontinue practice at a practice, or upon death or incapacitation, the following provisions apply to minimize disruptions in patients' access to dental care:

- a.* A licensee or appointed representative shall notify all active patients in writing, by making the same notification available on the website of the dental practice for no less than 30 days, or by publication once a week for three consecutive weeks in a newspaper of general circulation that the licensee intends to discontinue the practice of dentistry and include guidance for the continuance of dental care, or how to make reasonable arrangements for the transfer of patient records or complete copies thereof to the patient, patient's guardian, or succeeding licensee.
- b.* A dentist should appoint another Iowa licensee, representative or entity who, upon the death or incapacitation of the dentist, is able to retain the patient records and assist patients with access to their records in compliance with state and federal law.

481—574.14(153) Unethical and unprofessional conduct.

574.14(1) Unethical or unprofessional conduct includes the following:

- a.* Taking actions that the board deems to be abusive, coercive, intimidating, harassing, untruthful or threatening in connection with the practice of dentistry.
- b.* Knowingly providing false or misleading information to the board or an agent of the board.
- c.* Knowingly interfering with a person filing a complaint with the board, or entering an agreement with a person that prohibits that person from filing a complaint with the board.
- d.* Failing to fully explain a treatment regimen and obtain patient authorization before treatment begins.

574.14(2) A licensee or registrant who has been diagnosed with a communicable or infectious disease shall comply with Iowa Code chapter 139A. Failure to do so constitutes unethical and unprofessional conduct and may be grounds for disciplinary action by the board.

481—574.15(153) Communications. Communications by inclusion or omission to the public must be accurate.

574.15(1) The following standards apply to the communications related to the practice of dentistry:

- a.* Statements, testimonials, photographs, graphics or other means of communication shall not convey false, untrue, deceptive, or misleading information.

b. Communications should not incite an individual's anxiety in an excessive or unfair way, and they should not create unjustified expectations of results.

c. Communications that refer to benefits or other attributes of dental procedures or products that involve significant risks must also include realistic assessments of the safety and efficacy of those procedures or products. Communications should also include information about alternatives where necessary to avoid deception.

d. Communications must neither misrepresent a dentist's credentials, training, experience or ability nor contain claims of superiority that cannot be substantiated.

574.15(2) Dentists are encouraged to engage in truthful, nondeceptive advertising. Dentists who engage in the types of advertising that do the following shall take care to ensure that ads are consistent with these rules:

a. Include claims that the service performed or the materials used are professionally superior to those which are deemed to be consistent with standard practice or that assert that one licensee is better than another when superiority of service or materials cannot be substantiated.

b. Reference an unearned or nonhealth degree.

c. Reference attainment of an honorary fellowship. An honorary fellowship does not include an award based on merit, study or research. The attainment of fellowship status may be indicated in scientific papers, curriculum vitae, third-party payment forms, and letterhead and stationery that is not used for the direct solicitation of patients.

d. Promote a professional service that the dentist knows or should know is beyond the dentist's ability to perform or that creates an unjustified expectation concerning the potential result of any dental treatment.

e. Include communication that is likely to intimidate or exert undue pressure or influence over a prospective patient.

f. Include a testimonial attesting to a quality of competence of a service or treatment offered by a licensee that is not reasonably verifiable.

g. Utilize statistical data or other information that creates an unjustified expectation about results that the dentist can achieve.

h. Include personally identifiable facts, data or other information about a patient without first obtaining patient consent.

i. Include any misrepresentation of a material fact.

j. Suppress, omit, or conceal any material fact or law without which the communication would be deceptive.

k. Include circumstances that indicate bait-and-switch advertising. The board may require the advertiser to furnish data or other evidence pertaining to those sales at the advertised price as well as other sales. Where the circumstances indicate deceptive advertising, the board may initiate an investigation or disciplinary action as warranted.

481—574.16(153) Advertising standards. The board may request a dentist to substantiate the truthfulness of any assertion or representation of material fact in an advertisement.

574.16(1) The dentist must possess and rely upon information that, when produced, would substantiate the truthfulness of any assertion, omission, or representation of material fact in the advertisement.

574.16(2) The failure or refusal to comply with the requirements of this rule may be deemed professional misconduct.

481—574.17(153) Fees. Advertising that states a fee must clearly define the professional service being offered in the advertisement. Advertised offers will be presumed to include everything ordinarily required for such a service.

481—574.18(153) Public representation. All advertisements and public representations should include the name and contact information of the practitioner who placed the ad.

574.18(1) If the advertisement refers to one's practice, the ad may state either "general/family practice" or "specialist," "specializes," or "specializing." A dentist may not advertise or represent oneself as a specialist unless the dentist complies with the other provisions of this rule.

574.18(2) A dentist may advertise as a specialist if the dentist is a diplomate of, or board-eligible for, a national certifying board of a specialty recognized by the American Dental Association (ADA) or the American Board of Dental Specialties (ABDS). A dentist should consult with the ADA or ABDS for a current list of recognized specialties.

574.18(3) A certifying board may apply for a new area of specialty by submitting information regarding the area of specialty, including an explanation of how the proposed specialty is within the scope of practice of dentistry in Iowa, and proof of the following:

- a.* The proposed specialty is separate and distinct from any preexisting specialty recognized by the ADA or ABDS;
- b.* The proposed specialty is a distinct and well-defined field that requires unique knowledge and skills beyond those commonly possessed by dental school graduates;
- c.* The certifying board is an independent entity that is comprised of licensed dentists, whose membership is reflective of the proposed specialty, and that is incorporated and governed solely by the licensed dentists/board members;
- d.* The certifying board has a permanent headquarters and staff;
- e.* The certifying board has issued diplomate certificates to licensed dentists for at least five years;
- f.* The certifying board requires passing an oral and written examination based on psychometric principles that tests the applicant's knowledge and skill in the proposed specialty;
- g.* The certifying board requires all dentists who seek certification in the proposed specialty to have successfully completed a specified, objectively verifiable amount of post-DDS or -DMD education and experience that is appropriate for the proposed specialty area, as determined by the certifying board; and
- h.* The certifying board's website includes online resources for the consumer to verify the certifying board's certification requirements and a list of the names and location of the dentists who have been awarded certification.

574.18(4) The use of the terms "specialist," "specializes," "orthodontist," "oral and maxillofacial surgeon," "oral and maxillofacial radiologist," "periodontist," "pediatric dentist," "prosthodontist," "endodontist," "oral pathologist," "public health dentist," "dental anesthesiologist," or other similar terms that imply that the dentist is a specialist may only be used by a licensed dentist who meets the requirements of this rule. A dentist who advertises as a specialist must avoid any implication that other dentists associated with the same practice are specialists unless the dentists also meet the requirements of this rule.

574.18(5) The term "diplomate" or "board-certified" may only be used by a dentist who has successfully completed the qualifying examination of the appropriate certifying board of one or more of the specialties recognized by the ADA or the ABDS, or as otherwise permitted pursuant to these rules.

574.18(6) A dentist may only advertise as a specialist pursuant to these rules if the advertisement includes the name of the national certifying board and the name of the entity that recognizes the board in the advertisement.

574.18(7) A dentist may advertise the areas in which the dentist practices, including but not limited to specialty services, using other descriptive terms such as "emphasis on _____" or other similar terms as long as all other provisions of these rules regarding advertising are met.

481—574.19(153) Responsibility for advertisements. Each professional who is a principal partner, officer, or licensed professional employee, acting as an agent of the firm or entity identified in the advertisement, is jointly and severally responsible for the form and content of any advertisement offering services or materials. The dentist should maintain a recording or copy of every advertisement for a period of two years that should be made available for review upon request by the board or its designee. The record should indicate the date and place of the advertisement.

481—574.20(147,153,272C) Mandatory reporting requirements. Pursuant to Iowa Code chapters 147, 153 and 272C, each licensee, registrant or committee of the board shall be responsible for reporting to the board the following matters:

574.20(1) *Standards of practice.* Within 30 days of acquiring knowledge, the following:

- a. Instances of gross or continually faulty treatment.
- b. Acts or omissions by other licensees or registrants that may constitute a basis for disciplinary action under the rules and statutory provisions governing the practice of dentistry, dental hygiene, or dental assisting in Iowa.

574.20(2) *Immediate threats to patient safety.* Within 24 hours of acquiring knowledge of a reportable act or omission that poses an immediate threat to patient safety, information regarding that act or omission.

574.20(3) *Adverse occurrences related to nitrous oxide or sedation.* Within seven days, any mortality related to sedation or nitrous oxide or any other incident related to sedation or nitrous oxide that results in the patient receiving inpatient treatment at a hospital or clinic. The licensee must submit a detailed report and include a complete copy of the patient record. The report should include, at a minimum, the following information:

- a. Description of dental procedure.
- b. Description of preoperative physical condition of patient.
- c. List of drugs and dosage administered.
- d. Description, in detail, of techniques utilized in administering the drugs utilized.
- e. Description of adverse occurrence:
 - (1) Description, in detail, of symptoms of any complications, to include but not be limited to onset and type of symptoms in patient.
 - (2) Treatment instituted on the patient.
 - (3) Response of the patient to the treatment.
- f. Description of the patient's condition on termination of any procedures undertaken.

574.20(4) *Judgments, settlements, or disciplinary action.* Within 30 days, any of the following:

- a. Any instance of disciplinary action taken by a licensing authority of another state, territory or country or another licensing authority in this state. A stay by an appellate court does not negate this requirement; however, if the disciplinary action is overturned or reversed by a court of last resort, the report will be expunged from the records of the board upon such notification;
- b. Any adverse judgment in a professional malpractice action to which the licensee or registrant was a party;
- c. Any settlement of a claim against the licensee or registrant alleging malpractice;
- d. Any restriction of practice imposed by a hospital, clinic or other practicing setting; or
- e. Being party to, or assisting in the violation of, any provision of Iowa law or rule of the board.

574.20(5) *Criminal convictions.* Within 60 days, any misdemeanor or felony conviction, excluding traffic offenses. Conviction of driving under the influence or while intoxicated is a reportable offense.

574.20(6) *Mandatory reporter information.* Mandatory reports filed with the board should include the following information:

- a. Name of any licensee or registrant who committed or was involved in the act or omission;
- b. Date on which the reportable offense occurred;
- c. Location where the reportable offense occurred;
- d. Names of patients, licensees, registrants or other parties that may have been adversely impacted by the act or omission;
- e. Disposition of the judgment, action or conviction; and
- f. All other applicable details.

This rule is intended to implement Iowa Code chapters 147, 153 and 272C.

481—574.21(17A,147,153,272C) Waiver prohibited. Rules in this chapter, except for rules 481—574.3(147,153,272C), 481—574.4(147,153,272C), 481—574.11(153), 481—574.15(153),

481—574.16(153), 481—574.18(153), and 481—574.19(153), are not subject to waiver pursuant to 481—Chapter 6 or any other provision of law.

These rules are intended to implement Iowa Code sections 153.33 and 153.34.

ARC 8497C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to dental assistants, dental radiology qualifications, and dental laboratory technicians and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt new Chapter 575, “Dental Assistants, Dental Radiology Qualifications, and Dental Laboratory Technicians,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 153, and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 136C and 153.

Purpose and Summary

These proposed rules provide Iowans, licensees, and their employers with the requirements for registered dental assistants, dental radiography, and dental laboratory technicians and, additionally, provides clarification regarding those who are exempt from these requirements. These rules articulate practice standards and provide a scope of practice for dental assistants in a dental office and public health setting and articulate the responsibilities of the supervising dentist. These rules also provide information regarding unlawful practice and the prohibition of advertising and soliciting dental services by these licensees.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

There were no public comments received with regard to this chapter and no changes were made as a result.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Dental Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#
January 3, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 575:

CHAPTER 575

DENTAL ASSISTANTS, DENTAL RADIOGRAPHY QUALIFICATIONS,
AND DENTAL LABORATORY TECHNICIANS

481—575.1(153) Registration required. A person shall not practice dental assisting without a current registration issued by the board pursuant to rule 481—571.5(147,153). The following individuals are exempt from the requirements of this rule:

575.1(1) Students enrolled in an accredited dental, dental hygiene, or dental assisting program;

575.1(2) Dental assistant trainees who are meeting the requirements for registration pursuant to Iowa Code section 153.39; and

575.1(3) Persons who are actively licensed in Iowa to practice dental hygiene or nursing and who are engaged in the practice of said profession.

481—575.2(136C,153) Qualification required.

575.2(1) A person who is not otherwise actively licensed by the board shall not participate in dental radiography unless the person holds an active registration or nursing license and holds an active radiography qualification issued by the board and a dentist provides general supervision.

a. A student enrolled in an accredited dental, dental hygiene, or dental assisting program who, as part of the student's course of study, applies ionizing radiation is exempt from the requirements of this rule; and

b. Dental assistants or Iowa-licensed nurses who are engaging in on-the-job training in dental radiography are exempt from the requirements of this rule.

575.2(2) Any individual except a licensed dentist or a licensed dental hygienist who participates in dental radiography in violation of this chapter or Iowa Code chapter 136C may be subject to the criminal and civil penalties set forth in Iowa Code chapter 136C.

575.2(3) Any licensee who permits a person to engage in dental radiography or a registrant who engages in dental radiography contrary to this chapter or Iowa Code chapter 136C may be subject to discipline by the board pursuant to 481—Chapter 580.

481—575.3(153) Dental assistants.

575.3(1) Dental assistant trainees are individuals who are engaging in on-the-job training to meet the requirements for registration pursuant to Iowa Code section 153.39 and rule 481—571.5(147,153). Trainees who are 18 years of age or older may also engage in on-the-job training in dental radiography pursuant to Iowa Code chapters 136C and 153 and this chapter.

a. Dental assistant trainees should successfully complete on-the-job training and examinations in the areas of infection control, hazardous materials, and jurisprudence.

b. A dental assistant trainee shall stop work as a dental assistant trainee if the trainee fails to become registered prior to the expiration date.

575.3(2) Registered dental assistants are individuals who have met the requirements for registration and have been issued registration. A registered dental assistant may, under direct supervision, assist a dentist in performing duties assigned by the dentist that are consistent with these rules. A registered dental assistant may take radiographs if qualified pursuant to this chapter.

481—575.4(153) Scope of practice.

575.4(1) In all instances, a dentist assumes responsibility for determining, on the basis of diagnosis, the specific treatment patients will receive and which aspects of treatment may be delegated to qualified personnel as authorized in these rules.

575.4(2) A licensed dentist may delegate to a dental assistant those procedures for which the dental assistant has received training. This delegation shall be based on the best interests of the patient and performed under the supervision of a licensed dentist and may include:

- a.* Placement and removal of dry socket medication;
- b.* Placement of periodontal dressings;
- c.* Testing pulp vitality;
- d.* Preliminary charting of existing dental restorations and teeth;
- e.* Glucose testing;
- f.* Phlebotomy;
- g.* Securing orthodontic wire with elastic chains, rubber bands, and ligature wire; and
- h.* Expanded function procedures in accordance with 481—Chapter 577.

575.4(3) The dentist will exercise supervision and is fully responsible for all acts performed by a dental assistant. A dentist may not delegate to a dental assistant any of the following, unless allowed pursuant to 481—Chapter 577:

a. Diagnosis, examination, treatment planning, or prescription, including prescription for drugs and medicaments or authorization for restorative, prosthodontic or orthodontic appliances.

- b.* Surgical procedures on hard and soft tissues within the oral cavity and any other intraoral procedure that contributes to or results in an irreversible alteration to the oral anatomy.
- c.* Administration of local anesthesia.
- d.* Placement of sealants.
- e.* Removal of any plaque, stain, or hard natural or synthetic material except by toothbrush, floss, or rubber cup coronal polish, or removal of any calculus.
- f.* Dental radiography, unless the assistant is qualified pursuant to this chapter.
- g.* Those procedures that require the professional judgment and skill of a dentist.

481—575.5(153) Supervision required.

575.5(1) A licensed dentist may delegate the following services to a registered dental assistant under general supervision:

- a.* All extraoral duties.
- b.* Intraoral suctioning.
- c.* Use of a curing light.
- d.* Dental radiography in accordance with rule 481—575.2(136C,153).
- e.* Other intraoral imaging except for taking occlusal registrations or final impressions. Expanded functions may only be performed in accordance with 481—Chapter 577.

575.5(2) Dentists may delegate other services that are within the scope of practice of a dental assistant, including expanded functions pursuant to 481—Chapter 577, under direct supervision or as otherwise permitted by rule.

575.5(3) A registered dental assistant may practice under public health supervision in accordance with rule 481—574.11(153).

481—575.6(153) Continuing education. For the purposes of renewal, every registrant and licensed nurse who holds a dental radiography qualification will complete continuing education requirements as specified in 481—Chapter 573 unless exempted by rule.

481—575.7(153) Students enrolled in dental assisting programs. Students enrolled in an accredited dental assisting program are not considered to be engaged in the unlawful practice of dental assisting provided that such practice is in connection with their regular course of instruction and meets the following:

575.7(1) The practice of clinical skills on peers enrolled in the same program is performed under the direct supervision of a program instructor with an active Iowa dental assistant registration, dental hygiene license, faculty permit, or dental license;

575.7(2) The practice of clinical skills on members of the public is performed under the direct supervision of a dentist with an active Iowa dental license or faculty permit.

481—575.8(153) Unlawful practice.

575.8(1) A dental assistant who assists a dentist in practicing dentistry in any capacity other than as a person supervised by a dentist in a dental office; who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor or director of a dental office as a guise or subterfuge to enable such dental assistant to engage directly or indirectly in the practice of dentistry; or who performs dental service directly or indirectly on or for members of the public other than as a person working for a dentist shall be deemed to be practicing dentistry without a license.

575.8(2) Any dental laboratory technician who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor; who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor or director of a dental office as a guise or subterfuge to enable such dental laboratory technician to engage directly or indirectly in the practice of dentistry; or who renders dental service directly or indirectly on or for members of the public other than as an employee or independent contractor for an employing dentist shall be deemed to be practicing dentistry without a license.

481—575.9(153) Advertising and soliciting of dental services prohibited. Dental assistants, dental laboratories or dental laboratory technicians shall not advertise, solicit, represent or hold themselves out in any manner to the general public that they will furnish, construct, repair or alter prosthetic, orthodontic or other appliances, with or without consideration, to be used as substitutes for or as part of natural teeth or associated structures or for the correction of malocclusions or deformities, or that they will perform or render any other dental service.

These rules are intended to implement Iowa Code chapters 136C and 153.

ARC 8489C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to dental hygienists and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt new Chapter 576, “Dental Hygienists,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 153, and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 147.10, 153.14, and 153.15.

Purpose and Summary

These proposed rules provide Iowans, licensees, and their employers with information relevant to the scope of practice of a dental hygienist. These rules list the types of services that dental hygienists can perform when delegated by and performed under the supervision of an Iowa-licensed dentist. Requirements for the level of supervision necessary are also established in these rules.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

There were no public comments received with regard to this chapter and no changes were made as a result.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Dental Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#
January 3, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 576:

CHAPTER 576
DENTAL HYGIENISTS

481—576.1(153) Authorized practice of a dental hygienist.

576.1(1) “Practice of dental hygiene” is defined in Iowa Code section 153.15 and includes the performance of educational, therapeutic, preventive and assessment services. Dental hygienists may perform such services, except educational services, when delegated by and performed under the supervision of an Iowa-licensed dentist.

a. Educational services include assessing the need for, planning, implementing, and evaluating oral health education programs for individual patients and community groups and conducting workshops and in-service training sessions on dental health for nurses, school personnel, institutional staff, community

groups and other agencies providing consultation and technical assistance for promotional, preventive and educational services.

b. Therapeutic services include identifying and evaluating factors that indicate the need for and performing the following:

- (1) Oral prophylaxis, which includes supragingival and subgingival debridement of plaque, and detection and removal of calculus with instruments or other devices;
- (2) Periodontal scaling and root planing;
- (3) Removal and polishing of hardened excess restorative material, which may include adhesives, using nonmotorized instruments;
- (4) Administration of local anesthesia with the proper permit;
- (5) Administration of nitrous oxide inhalation analgesia in accordance with rule 481—579.1(153);
- (6) Application and administration of medicaments prescribed by a dentist, including chemotherapeutic agents, or therapies for the treatment of periodontal disease and caries;
- (7) Phlebotomy; and
- (8) Expanded function procedures in accordance with 481—Chapter 577.

c. Preventive services include applying pit and fissure sealants and medications, including silver diamine fluoride; using other methods for caries and periodontal disease control; and organizing and administering fluoride rinse or sealant programs.

d. Assessment services include reviewing medical and dental health histories, performing oral inspection, indexing dental and periodontal disease, preliminary charting of existing dental restorations and teeth, making occlusal registrations for mounting study casts, testing pulp vitality, testing glucose levels, and analyzing dietary surveys.

576.1(2) The following services may only be delegated by a dentist to a dental hygienist:

- a.* Administration of local anesthesia;
- b.* Placement of sealants except as permitted by 481—Chapter 577; and
- c.* Removal of any plaque, stain, calculus, or hard natural or synthetic material, except when removed by toothbrush, floss, or rubber cup coronal polish.

576.1(3) Subsequent examination and monitoring of the patient, including definitive diagnosis and treatment planning, is the responsibility of the dentist and shall be carried out in a reasonable period of time in accordance with the professional judgment of the dentist based upon the individual needs of the patient.

This rule is intended to implement Iowa Code section 153.15.

481—576.2(153) Scope of practice and supervision requirements.

576.2(1) In accordance with Iowa Code chapter 153, all authorized services provided by a dental hygienist, except educational services, shall be performed under the general, direct, or public health supervision of an Iowa-licensed dentist. Pursuant to 481—Chapter 577, clinical training in expanded functions requires those services to be performed under observational supervision.

576.2(2) Under the general supervision of a dentist, a dental hygienist may provide educational, therapeutic, preventive and assessment services, including screening, or data collection for the preparation of written records for evaluation by a licensed dentist. A dentist may only delegate patient services to be performed under general supervision for patients of record.

576.2(3) Under the public health supervision of a dentist, a dental hygienist may provide educational, therapeutic, preventive and assessment services, including screening, or data collection pursuant to rule 481—574.11(153).

576.2(4) Dental hygienists may only administer local anesthesia if they hold a current permit in accordance with rule 481—572.10(147,153), or nitrous oxide inhalation analgesia in accordance with rule 481—579.1(153), and perform expanded functions in accordance with 481—Chapter 577 under the direct supervision of a dentist.

576.2(5) Dental hygienists may perform all other authorized services on a new patient under the direct or public health supervision of a dentist pursuant to rule 481—574.11(153). An examination by

the dentist must take place during an initial visit by a new patient, except when hygiene services are provided under public health supervision.

576.2(6) Dentists may authorize services to be performed under direct supervision in lieu of general supervision when the dentist determines such supervision is necessary to meet the individual needs of the patient.

This rule is intended to implement Iowa Code section 153.15.

481—576.3(153) Unauthorized practice of a dental hygienist.

576.3(1) A dental hygienist who renders hygiene services, except educational services, that have not been delegated by a licensed dentist or that are not performed under the supervision of a licensed dentist as provided by rule is deemed to be practicing illegally.

576.3(2) The unauthorized practice of dental hygiene means allowing a person not licensed in dentistry or dental hygiene to perform dental hygiene services or for a dental hygienist to perform services that exceed the scope of practice authorized in Iowa Code section 153.15 and this chapter.

This rule is intended to implement Iowa Code sections 147.10 and 153.15.

481—576.4(153) Students enrolled in dental hygiene programs. Students enrolled in an accredited dental hygiene program are not considered to be engaged in the unlawful practice of dental hygiene provided that such practice is in connection with their regular course of instruction and complies with the following:

576.4(1) The practice of clinical skills on peers enrolled in the same program may be performed under the direct supervision of a program instructor with an active Iowa dental hygiene license, faculty permit, or dental license.

576.4(2) The practice of clinical skills on members of the public may only be performed under the general supervision of a dentist with an active Iowa dental license or faculty permit.

576.4(3) The practice of clinical skills involving the administration or monitoring of nitrous oxide or the administration of local anesthesia may only be performed under the direct supervision of a dentist with an active Iowa dental license or faculty permit.

This rule is intended to implement Iowa Code sections 153.14 and 153.15.

ARC 8478C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rulemaking related to expanded functions
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt new Chapter 577, “Expanded Functions,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 153, and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 153.

Purpose and Summary

This proposed rulemaking promulgates Chapter 577 and implements Iowa Code chapter 153 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code section 153.33 provides rulemaking authority.

This rulemaking implements Iowa Code chapter 153 by providing Iowans, licensees and their employers with information and definitions relevant to expanded functions. This chapter allows for and provides requirements for performing expanded functions after successful completion of Dental Board-approved training. This chapter establishes the standards by which the Board reviews and approves requests for training in expanded functions. This chapter also details eligibility requirements for expanded functions for dental assistants and hygienists, information on expanded function categories, procedures for dental hygienists and assistants, and training for expanded functions.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

There were no public comments received with regard to this chapter and no changes were made as a result.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition DIAL for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by DIAL no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#
January 3, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 577:

CHAPTER 577
EXPANDED FUNCTIONS

481—577.1(153) Expanded function requirements and eligibility.

577.1(1) Dental hygienists or registered dental assistants may only perform expanded function procedures upon successful completion of a board-approved course of training. Dental assistant trainees are not eligible to receive training in or perform expanded function procedures.

a. This shall not preclude dental hygienists or dental assistants from practicing expanded function procedures for training purposes while enrolled in a board-approved course of training.

b. Expanded function procedures must be delegated by and performed under the direct supervision of a licensed dentist unless otherwise specified in this chapter.

577.1(2) To be eligible to train in expanded function procedures, dental hygienists must hold an active dental hygiene license in Iowa.

577.1(3) To be eligible to train in expanded function procedures, dental assistants must hold an active registration and comply with one of the following:

- a.* Be a graduate of an accredited school;
- b.* Be currently certified by the Dental Assisting National Board (DANB); or
- c.* Have at least three months of clinical practice as a registered dental assistant or clinical practice as a dental assistant in a state that does not require registration.

577.1(4) A dentist who delegates expanded function procedures to dental hygienists or dental assistants under direct supervision must examine the patient to review the quality of work prior to the conclusion of the dental appointment. The following expanded function procedures are exempt from this requirement and may be performed under general supervision:

- a.* Recementation of a provisional restoration.
- b.* Taking occlusal registrations for purposes other than mounting study casts by dental hygienists only.

481—577.2(153) Expanded function categories. Dental hygienists and dental assistants must be issued a certificate of completion for the corresponding function in which board-approved training has been completed before performing a specific expanded function procedure. A dentist may delegate to dental hygienists or dental assistants only those expanded function procedures in which training has been successfully completed.

577.2(1) Level 1 expanded functions may be taught by board-approved training providers using curriculum prior-approved by the board.

577.2(2) Training in Level 2 expanded functions must be completed at the University of Iowa College of Dentistry or another accredited school using curriculum approved by the board. Before

beginning Level 2 training, dental hygienists and dental assistants must complete all prerequisites for the Level 2 training established by the accredited school.

481—577.3(153) Level 1 expanded function procedures.

577.3(1) Level 1 expanded function procedures include:

- a. Taking occlusal registrations;
- b. Placement and removal of gingival retraction material;
- c. Fabrication, temporary cementation, and removal of provisional restorations following review of the fit and function by the supervising dentist, and temporary recementation of provisional restorations;
- d. Applying cavity liners and bases and desensitizing agents;
- e. Applying bonding systems, which may include the placement of the attachments used in clear aligner systems, following review of the fit and function by the supervising dentist;
- f. Placement, bonding, and removal of provisional orthodontic restorations as follows:
 - (1) Placement or bonding of orthodontic brackets and bands or provisional orthodontic appliances following review of the fit and function by the supervising dentist; and
 - (2) Removal of adhesive, orthodontic brackets and bands, or provisional orthodontic appliances using nonmotorized hand instrumentation;
- g. Taking final impressions for fixed restorations or dental prosthetics;
- h. Placement of temporary restorative materials following preparation of the tooth by a dentist;
- i. Extraoral adjustment to acrylic dentures without making any adjustments to the prosthetic teeth;
- j. Tissue conditioning (soft reline only); and
- k. Placement, management, and removal of an intravenous (IV) infusion line for moderate sedation, deep sedation, or general anesthesia. Placement of an IV may include the administration of saline. Placement of an IV does not include the administration of any drugs or medications.

577.3(2) The following procedures are Level 1 expanded functions only for dental assistants, and are within the scope of practice for dental hygienists:

- a. Monitoring of patients receiving nitrous oxide inhalation analgesia, which may include increasing oxygen levels as needed, pursuant to the following:
 - (1) A dentist shall induce a patient and establish the maintenance level;
 - (2) A dental assistant may make adjustments that decrease the nitrous oxide concentration during the administration of nitrous oxide; and
 - (3) A dental assistant may turn off the oxygen delivery at the completion of the dental procedure.
- b. Removal of adhesives using nonmotorized hand instrumentation.

481—577.4(153) Level 2 expanded function procedures for dental hygienists and dental assistants.

577.4(1) Level 2 expanded function procedures for dental hygienists and dental assistants include:

- a. Placement and shaping of amalgam following preparation of a tooth by a dentist;
- b. Placement and shaping of adhesive restorative materials following preparation of a tooth by a dentist;
- c. Polishing of adhesive restorative material using a slow-speed handpiece; and
- d. Fitting of stainless-steel crowns on primary posterior teeth, and cementation after fit verification by a dentist.

577.4(2) Level 2 expanded function procedures for dental assistants include the placement of sealants. The placement of sealants is included in the scope of practice for dental hygienists and is not considered an expanded function for dental hygienists.

577.4(3) These Level 2 expanded function procedures refer to both primary and permanent teeth except as otherwise noted. Training in Level 2 expanded functions may be separated between application of the services on primary or permanent teeth as determined by the accredited training provider.

481—577.5(153) Expanded function training.

577.5(1) *Approved expanded function training programs.* Training programs for Level 1 and Level 2 expanded function procedures must be board-approved. Training programs for Level 2 expanded

function procedures are limited to the University of Iowa College of Dentistry or another accredited school.

577.5(2) *Certificates of completion.* All board-approved training programs are authorized and required to issue certificates to dental hygienists and dental assistants who successfully complete expanded function training. A certificate shall be issued for one or more of the expanded function procedures completed. Dental hygienists and dental assistants shall prominently display the expanded functions certificate in each dental facility where services are provided.

577.5(3) *Training.* Training may be completed in one or more of the listed expanded function procedures. Clinical training in expanded function procedures must be completed under observational supervision. Level 1 expanded function training includes the following:

- a. An initial assessment to determine the base entry level of all participants;
- b. Completion of the minimum standards for each function as specified in this rule; and
- c. A post-course written examination at the conclusion of the training program, with a minimum of ten questions per function. A score of 75 percent or higher is deemed to be a passing score.

577.5(4) *Minimum training standards.* Every expanded function procedure requires the completion of clinical training that includes a minimum of five patient experiences per procedure under observational supervision unless stated otherwise.

a. Taking occlusal registrations. In addition to the required clinical training, a minimum of one hour of didactic training.

b. Placement and removal of gingival retraction material. In addition to the required clinical training, a minimum of two hours of didactic training and the equivalent of one hour of laboratory training that includes three experiences.

c. Fabrication, temporary cementation, temporary recementation, and removal of provisional restorations. A minimum of four hours of didactic training, the equivalent of four hours of laboratory training that includes five experiences, and clinical training that includes a minimum of ten patient experiences under observational supervision.

d. Applying cavity liners and bases and desensitizing agents. In addition to the required clinical training, a minimum of one hour of didactic training and the equivalent of one hour of laboratory training that includes a minimum of two experiences.

e. Applying bonding systems, which may include the placement of the attachments used in clear aligner systems, following review of the fit and function by the supervising dentist. In addition to the required clinical training, a minimum of two hours of didactic training and the equivalent of one hour of laboratory training that includes a minimum of two experiences.

f. Placement, bonding, and removal of orthodontic brackets and bands or provisional orthodontic appliances pursuant to subrule 577.3(6). For each procedure, in addition to the required clinical training, a minimum of two hours of didactic training and the equivalent of one hour of laboratory training that includes a minimum of two experiences.

g. Monitoring of patients receiving nitrous oxide inhalation analgesia, pursuant to paragraph 577.3(13)“a.” In addition to the required clinical training, a minimum of two hours of didactic training and one hour of laboratory training in the office where the dental hygienist or dental assistant is employed.

h. Taking final impressions. A minimum of three hours of didactic training, and the equivalent of clinical training that includes a minimum of six patient experiences under observational supervision.

i. Removal of adhesives using nonmotorized hand instrumentation. In addition to the required clinical training, a minimum of one hour of didactic training.

j. Placement of temporary restorative materials following preparation of the tooth by the dentist. In addition to the required clinical training, a minimum of two hours of didactic training and the equivalent of one hour of laboratory training that includes a minimum of two experiences.

k. Extraoral adjustment to acrylic dentures without making any adjustments to the prosthetic teeth. In addition to the required clinical training, a minimum of one hour of didactic training and the equivalent of one hour of laboratory training that includes a minimum of two experiences.

l. Tissue conditioning (soft reline only). In addition to the required clinical training, a minimum of one hour of didactic training and the equivalent of one hour of laboratory training that includes a minimum of two experiences.

m. Placement, management, and removal of an IV infusion line for moderate sedation, deep sedation, or general anesthesia. A minimum of 12 hours of didactic training or current Dental Anesthesia Assistant National Certification Examination (DAANCE) certification; and eight hours of laboratory and clinical training that includes a minimum of six venipunctures, two of which are completed on human subjects. Supervision for the clinical experiences shall be completed under the supervision of a dentist with a current sedation or anesthesia permit, or a licensed sedation provider.

577.5(5) *Acceptance of previously completed board-approved training.* Any dental hygienist or dental assistant who previously completed board-approved expanded function training can continue to perform expanded function procedures for which training has been completed and documentation is available. For any expanded function procedures that are new, in whole or in part, additional training to satisfy the minimum training requirement is required of the dental hygienist or dental assistant prior to performing the new expanded function procedure.

These rules are intended to implement Iowa Code chapter 153.

ARC 8503C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to prescribing, administering, and dispensing drugs and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt new Chapter 578, “Prescribing, Administering, and Dispensing Drugs,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 124, 153A, 153.33, and 155A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 153.20.

Purpose and Summary

This proposed rulemaking promulgates Chapter 578 and implements Iowa Code chapter 153 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code section 153.33 provides rulemaking authority.

This rulemaking implements Iowa Code section 153.20 by providing Iowans, licensees, and their employers with information relevant to the authority and requirements of licensed dentists who are prescribing, administering, or dispensing prescription drugs. This chapter also provides requirements for recordkeeping, labels and containers, and use of the Prescription Monitoring Program (PMP).

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

There were no public comments received with regard to this chapter and no changes were made as a result.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Dental Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by DIAL no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025 12 noon to 12:30 p.m.	6200 Park Avenue Des Moines, Iowa Via video conference call: meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#
January 3, 2025 12 noon to 12:30 p.m.	6200 Park Avenue Des Moines, Iowa Via video conference call: meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 578:

CHAPTER 578
PRESCRIBING, ADMINISTERING, AND DISPENSING DRUGS

481—578.1(153) Scope of authority and prescribing requirements.

578.1(1) A license to practice dentistry issued by this board permits the licensee to prescribe, administer, or dispense prescription drugs if the use is directly within the scope of the dentist-patient relationship. Registration with the federal Drug Enforcement Administration and the board of pharmacy extends this privilege to controlled substances.

578.1(2) A licensed dentist may only prescribe, administer or dispense a prescription drug for a diagnosed dental condition that is included in the treatment plan and entered into the patient record. A dental examination and medical history must be completed and entered into the patient record before a dentist prescribes, administers, or dispenses a prescription drug to a patient. Fluoride may also be dispensed under protocols approved by the dental and oral health program of the department of health and human services.

578.1(3) On each occasion when a dentist prescribes, administers, or dispenses a prescription drug to a patient, the patient's dental record will be updated to include the following information:

- a. Name, quantity, and strength of the prescription drug.
- b. Directions for its use.
- c. Date of issuance.
- d. Conditions for which the prescription drug was used.

578.1(4) A dentist may only prescribe, administer, or dispense prescription drugs in accordance with all applicable state and federal laws.

578.1(5) A dentist may only purchase, administer, or dispense controlled substances if the dentist maintains records and accountability in accordance with 481—Chapter 553 and all other applicable state and federal laws.

578.1(6) A dentist cannot self-prescribe or self-administer controlled substances.

578.1(7) A dentist may only prescribe, administer, or dispense controlled substances to members of the licensee's immediate family in the case of an acute dental condition or on an emergency basis for a dental condition after the licensee conducts an examination, establishes a patient record, and maintains proper documentation.

481—578.2(153) Dispensing—requirements for containers and labeling.

578.2(1) *Containers.* A prescription drug shall be dispensed in a suitable container designed to protect its integrity in accordance with all applicable federal and state laws.

578.2(2) *Labeling.* A label shall be affixed to the container in which a prescription drug is dispensed bearing the following information:

- a. Name and address of the dentist.
- b. Name of the patient.
- c. Date dispensed.
- d. Directions for use.
- e. Name, quantity, and strength of medication.
- f. If the prescription drug is a Schedule II, III, or IV controlled substance, the federal transfer warning statement must appear on the label as follows: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."
- g. Cautionary statements, if any.

481—578.3(153) Prescription requirements.

578.3(1) A dentist shall take adequate measures to prevent prescription forgery from occurring. Dentists may only transmit prescription drug orders, including prescriptions for controlled substances, electronically unless exempted. A dentist who fails to comply with the electronic prescription mandate

may be subject to a nondisciplinary administrative penalty of \$250 per violation, up to a maximum of \$5,000 per calendar year.

578.3(2) A dentist may delegate to a licensed dental hygienist or registered dental assistant the preparation of a prescription for the review, authorization, and manual or electronic signature of the dentist, but the dentist is responsible for the accuracy, completeness, and validity of the prescription.

578.3(3) A dentist shall securely maintain the unique authentication credentials issued to the dentist for utilization of the electronic prescription application and authentication of the dentist's electronic signature. Unique authentication credentials issued to any individual may not be shared with or disclosed to any other individual.

481—578.4(153) Required use of the prescription monitoring program (PMP).

578.4(1) A dentist may only prescribe or dispense an opioid if the dentist or authorized delegate queries the PMP. The query for each patient may not be performed more than 48 hours prior to each instance of an opioid prescription being authorized, issued, or dispensed.

578.4(2) A dentist who dispenses a controlled substance is required to report the dispensing to the PMP within one business day in accordance with 481—Chapter 556.

These rules are intended to implement Iowa Code section 153.20.

ARC 8510C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rulemaking related to sedation and nitrous oxide
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt new Chapter 579, "Sedation and Nitrous Oxide," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 153.33.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 153.13, 153.33, and 153.33B.

Purpose and Summary

This proposed rulemaking promulgates Chapter 579 and implements Iowa Code section 153 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code section 153.33 provides rulemaking authority.

This rulemaking implements Iowa Code sections 153.13, 153.33, and 153.33B by providing Iowans, licensees, and their employers with information relevant to sedation permits. This chapter provides definitions relevant to the administration of deep sedation, general anesthesia, moderate sedation, minimal sedation, and nitrous oxide inhalation analgesia by licensed dentists or dental hygienists. This chapter provides information relevant to training, requirements for the facility, patient evaluations, supervision requirements, permissible levels of sedation, reporting adverse reactions, and requirements for obtaining a permit.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

Public comments on this chapter were received from Carney and Appleby, P.L.C., on behalf of the Iowa Association of Nurse Anesthetists (IANA). Comments were presented regarding the reduction made in standards for a patient monitor. Changes to these standards were made in error during revisions and the Board agreed to correct these standards. IANA also suggested including nasal airways in the list of required supplies. The Board agreed and this was added to the rules. IANA also suggested that when LSPs are present, an additional patient monitor is not necessary. The Board did not change this because patient monitors are there to protect the public. IANA also stresses the importance of emergency intervention training and requiring patient monitors to hold ACLS or DAANCE certification. Changes have been made to this requirement. The Board also discussed the need for emergency drugs to be listed in this chapter. Those have been added.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Dental Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#
January 3, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 579:

CHAPTER 579
SEDATION AND NITROUS OXIDE

481—579.1(153) Nitrous oxide inhalation analgesia.

579.1(1) A dentist may use nitrous oxide inhalation analgesia on an outpatient basis for dental patients provided the dentist has completed training and complies with the following:

- a. Has adequate equipment with fail-safe features.
- b. Has inspection and maintenance performed on equipment as needed to ensure its proper performance, maintains documentation of such, and provides the documentation to the board upon request.
- c. Ensures the patient is continually monitored by a patient monitor while receiving nitrous oxide inhalation analgesia.

579.1(2) A dentist shall provide direct supervision of the administration and monitoring of nitrous oxide and establish a written office protocol for taking vital signs, adjusting anesthetic concentrations, and addressing emergency situations that may arise. The dentist is responsible for the dismissal of the patient following completion of the procedure.

579.1(3) A dental hygienist may administer and monitor nitrous oxide inhalation analgesia when the services have been prescribed by a dentist and the hygienist has completed board-approved training.

579.1(4) A dental assistant who has completed a board-approved expanded function course or holds a current Dental Anesthesia Assistant National Certification Examination (DAANCE) certification may monitor a patient who is receiving nitrous oxide after the dentist has induced the patient and established the maintenance level. A dental assistant may make adjustments to decrease the nitrous oxide concentration while monitoring the patient or may turn off oxygen delivery at the completion of the dental procedure.

481—579.2(153) Minimal sedation standards.

579.2(1) A dentist shall evaluate a patient prior to the start of any sedative procedure. In healthy or medically stable patients (ASA I, II), the dentist should review the patient's current medical history and medication use. For a patient with significant medical considerations (ASA III, IV), a dentist may need to consult with the patient's primary care provider or consulting medical specialist. A dentist may only provide minimal sedation after obtaining informed consent from the patient or the patient's parent or legal guardian.

579.2(2) Minimal sedation for ASA I or II nonpediatric patients.

- a. A dentist may prescribe or administer a single medication for minimal sedation via the enteral route that does not exceed the maximum recommended dose (MRD) for unmonitored home use. A dentist may only administer a supplemental dose of the same drug if the clinical half-life of the initial dose has passed and the total aggregate dose does not exceed 1.5 times the MRD on the day of treatment.
- b. A dentist may administer a single medication for minimal sedation via the enteral route that does not exceed the MRD for monitored use on the day of treatment.
- c. A dentist may utilize nitrous oxide inhalation analgesia in combination with a single enteral drug.

579.2(3) Minimal sedation for ASA III, ASA IV or pediatric patients.

- a.* A dentist may prescribe or administer a single medication for minimal sedation via the enteral route that does not exceed the MRD for unmonitored home use.
- b.* A dentist may administer a single medication for minimal sedation via the enteral route that does not exceed the MRD for monitored use on the day of treatment.
- c.* A dentist may only administer nitrous oxide inhalation analgesia for minimal sedation of ASA III or IV patients or pediatric patients provided the concentration does not exceed 50 percent and is not used in combination with any other drug.

481—579.3(153) Shared standards for moderate sedation, deep sedation and general anesthesia.

579.3(1) A dentist may only administer moderate sedation, deep sedation or general anesthesia if the dentist holds a current moderate sedation permit or general anesthesia permit pursuant to rule 481—572.11(153).

579.3(2) A dentist administering sedation anesthesia must maintain current advanced cardiac life support (ACLS) certification. A dentist administering moderate sedation to pediatric patients may maintain current pediatric advanced life support (PALS) certification in lieu of current ACLS certification.

579.3(3) A dentist may only start a sedative procedure after evaluating a patient. A dentist should review a patient's medical history, medication(s) and NPO (nothing by mouth) status. For a patient with significant medical considerations (ASA III, IV), a dentist may need to consult with the patient's primary care provider or consulting medical specialist. The dentist should consult the body mass index as part of the preprocedural workup.

579.3(4) A dentist may only administer sedation or anesthesia if the following requirements are met:

- a.* Facilities are appropriately staffed to reasonably handle emergencies;
- b.* A patient monitor remains present in the treatment room to continually monitor the patient until the patient returns to a level of minimal sedation;
- c.* The dentist provides postoperative verbal and written instructions to the patient and caregiver prior to discharging the patient;
- d.* The dentist remains in the facility until the patient meets the criteria for discharge;
- e.* The dentist or another designated permit holder or licensed sedation provider is available for appropriate postoperative aftercare for a minimum of 48 hours following the administration of sedation; and
- f.* The dentist establishes emergency protocols that comply with the following:
 - (1) Establishment of a procedure for immediate access to backup emergency services;
 - (2) Employment of initial life-saving measures by a patient monitor in the event of an emergency, including activation of the emergency medical service (EMS) system for life-threatening complications;
 - (3) Avoidance of chest or airway obstruction when applying an immobilization device and allowance for the ongoing exposure of a hand or foot; and
 - (4) Availability of a functioning suction apparatus as well as the ability to provide >90% oxygen and positive-pressure ventilation, along with age- and size-appropriate rescue equipment in the recovery room for pediatric patients.

481—579.4(153) Moderate sedation standards.

579.4(1) Moderate sedation for ASA I or II nonpediatric patients.

- a.* A dentist may prescribe or administer a single enteral drug in excess of the MRD on the day of treatment.
- b.* A dentist may prescribe or administer a combination of more than one enteral drug.
- c.* A dentist may administer nitrous oxide with more than one enteral drug.
- d.* A dentist may administer a medication for moderate sedation via the parenteral route in single or incremental doses.

e. A dentist may only administer drug(s) or techniques, or both, provided there is a margin of safety wide enough to render unintended loss of consciousness unlikely.

579.4(2) Moderate sedation for ASA III, ASA IV or pediatric patients. A dentist who does not meet the requirements of 481—subparagraph 573.11(1)“b”(3) may not administer moderate sedation, deep sedation or general anesthesia to pediatric or ASA III or IV patients. The following constitute moderate sedation:

- a.* The use of one or more enteral drugs in combination with nitrous oxide.
- b.* The administration of any intravenous drug.

579.4(3) A dentist may administer moderate sedation in a facility provided the following requirements are met:

- a.* Have at least one patient monitor observe the patient while the patient is under moderate sedation; and
- b.* Utilize capnography or a pretracheal/precordial stethoscope as stipulated below:
 - (1) Use capnography to monitor end-tidal carbon dioxide unless the use of capnography is precluded or invalidated by the nature of the patient, procedure or equipment.
 - (2) In cases where the use of capnography is precluded or invalidated for the reasons listed previously, a pretracheal or precordial stethoscope must be used to continually monitor the auscultation of breath sounds.

481—579.5(153) Deep sedation or general anesthesia standards.

579.5(1) The administration of anesthetic sedative agents intended for deep sedation or general anesthesia, including but not limited to Propofol, Ketamine and Dilaudid, is deemed to constitute deep sedation or general anesthesia.

579.5(2) A dentist may administer deep sedation or general anesthesia provided the following requirements are met:

- a.* Have at least two patient monitors observe the patient while the patient is under deep sedation or general anesthesia;
- b.* Utilize capnography and a pretracheal/precordial stethoscope; and
- c.* If the dentist has a recovery area separate from the operatory, the recovery area has oxygen and suction equipment.

481—579.6(153) Training and certification requirements for patient monitors. Patient monitors must be capable of administering emergency support and complete training as required by this rule.

579.6(1) Patient monitors who will observe patients receiving deep sedation or general anesthesia must have a current certification in ACLS, PALS, or DAANCE.

579.6(2) A patient monitor who will observe patients receiving moderate sedation may meet one of the requirements listed in subrule 579.6(1) or complete on-site training for a minimum of three hours in airway management that provides the knowledge and skills necessary to competently assist with emergencies, including but not limited to recognizing apnea and airway obstruction.

481—579.7(153) Recordkeeping requirements for nitrous oxide, sedation or anesthesia. In addition to the recordkeeping requirements specified in rule 481—574.9(153,272C), the patient record must include the following information as applicable when administering nitrous oxide, sedation or anesthesia.

579.7(1) The concentration of nitrous oxide administered; dosage of medication administered, including any prescription for at-home unmonitored use, if applicable; duration of administration; and vital signs taken.

579.7(2) When administering moderate sedation, deep sedation or general anesthesia, a time-oriented anesthesia record that contains preoperative and postoperative vital signs; the names of all drugs administered, including local anesthetics and nitrous oxide, dosages, anesthesia time in minutes, and monitors used; and monitored physiological parameters, including oxygenation, ventilation, and circulation. When administering deep sedation or general anesthesia, pulse oximetry, heart rate, respiratory rate, and blood pressure must be recorded continually until the patient is fully ambulatory.

579.7(3) When administering moderate sedation, deep sedation or general anesthesia, the record should include the name of the person to whom the patient was discharged.

481—579.8(153) Facility and equipment requirements for moderate sedation, deep sedation or general anesthesia.

579.8(1) A permit holder shall notify the board office in writing within 60 days of a change in location or the addition of a sedation facility.

579.8(2) A dentist may only administer moderate sedation or anesthesia in a facility that is permanently and properly equipped. A dentist is required to be trained in and maintain, at a minimum, the following equipment:

- a. Electrocardiogram (EKG) monitor;
- b. Positive pressure oxygen;
- c. Suction;
- d. Laryngoscope and blades;
- e. Endotracheal tubes;
- f. Magill forceps;
- g. Oral airways;
- h. Stethoscope;
- i. Blood pressure monitoring device;
- j. Pulse oximeter;
- k. Emergency drugs, in accordance with subrule 579.8(3);
- l. Defibrillator;
- m. Capnography machine;
- n. Pretracheal or precordial stethoscope;
- o. Nasopharyngeal airway (nasal trumpet); and
- p. Any additional equipment necessary to establish intravascular or intraosseous access, which will be available until the patient meets discharge criteria.

579.8(3) Pursuant to paragraph 579.8(2) “k,” a dentist providing sedation at a dental facility is required to maintain on site emergency drugs that meet the needs of the following categories. At a minimum, a dentist providing moderate sedation shall maintain emergency drugs specified in paragraphs 579.8(3) “a” through “f.” A dentist providing deep sedation or general anesthesia shall maintain emergency drugs for all of the following categories:

- a. Vasopressor.
- b. Bronchodilator.
- c. Benzodiazepine antagonist.
- d. Narcotic antagonist.
- e. Coronary artery vasodilator.
- f. Low blood sugar medication.
- g. Corticosteroid.
- h. Antihistamine.
- i. Antiarrhythmic.
- j. Cardiopulmonary arrest IV medication.
- k. Anticholinergic.
- l. Neuromuscular blocker.
- m. Antihypertensive.

579.8(4) The board or its designated agents may conduct facility inspections. A facility inspection may be required before a sedation permit is issued or before sedation services are provided at a new or updated facility. The actual costs associated with the on-site evaluation of the facility are the primary responsibility of the licensee. The cost to the licensee will not exceed the fee specified in 481—Chapter 571.

481—579.9(153) Use of another licensed sedation provider or permit holder.

579.9(1) A dentist may only use the services of a licensed sedation provider or another permit holder to administer moderate sedation, deep sedation or general anesthesia in a dental facility if the following requirements are met:

a. The dentist holds a current moderate sedation or general anesthesia permit. A permit holder who does not meet the training requirement to administer moderate sedation to pediatric or ASA III or IV patients as stipulated in 481—subparagraph 572.11(1)“b”(3) may use another licensed sedation provider or qualified permit holder to administer moderate sedation to pediatric or ASA III or IV patients.

b. The dentist remains present in the treatment room for the duration of any dental treatment.

c. The facility is a permanently and properly equipped facility pursuant to the provisions of this chapter.

d. The permit holder assesses the need and patient suitability for sedation services. A permit holder may not interfere with any independent assessment performed by a licensed sedation provider.

579.9(2) When a licensed sedation provider or another permit holder is used to administer moderate sedation, deep sedation or general anesthesia, that provider constitutes one patient monitor for the purpose of complying with rule 481—579.6(153).

579.9(3) A dentist who does not hold a sedation permit is prohibited from using a licensed sedation provider or permit holder to provide moderate sedation, deep sedation or general anesthesia.

481—579.10(153) Advertising. A dentist will ensure that any advertisements related to the availability of antianxiety premedication or minimal sedation clearly reflect the level of sedation provided and are not misleading.

481—579.11(153) Noncompliance. Violations of the provisions of this chapter may result in disciplinary measures as deemed appropriate by the board.

These rules are intended to implement Iowa Code section 153.13.

ARC 8511C**INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action****Proposing rulemaking related to dental board complaints and investigations
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt new Chapter 580, “Dental Board Complaints and Investigations,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 272C and sections 147.76 and 153.33.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and sections 153.33, 272C.3, and 272C.4.

Purpose and Summary

This proposed rulemaking promulgates Chapter 580 and implements Iowa Code chapters 147 and 153 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code sections 147.76 and 153.33 provide rulemaking authority.

This rulemaking implements Iowa Code chapter 17A and sections 153.33, 272C.3, and 272C.4 by ensuring the public and licensees are aware of the complaint and investigation process and understand their rights and responsibilities during this process. This chapter sets forth information regarding complaints and investigations against licensees. The chapter also provides information regarding the process for submitting a complaint; reporting requirements for licensees; information on the investigative process; and information regarding the issuance of investigatory subpoenas, peer review committees, and Dental Board appearances.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

There were no public comments received with regard to this chapter and no changes were made as a result.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Dental Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#
January 3, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following new 481—Chapter 580:

CHAPTER 580
DENTAL BOARD COMPLAINTS AND INVESTIGATIONS

481—580.1(147,153,272C) Complaint review. Pursuant to Iowa Code sections 147.87, 153.33, 272C.3 and 272C.4, the board shall, upon receipt of a complaint or upon its own motion, review and investigate alleged acts or omissions that the board reasonably believes constitute cause under applicable law or administrative rule for licensee or registrant discipline. Pursuant to Iowa Code section 153.33A, all complaints regarding the practice of dental hygiene will be initially directed to the dental hygiene committee.

481—580.2(153) Form, content and submission of complaints.

580.2(1) Complaints should be filed with department staff associated with the board. Complaints may be filed via the board's online database or via complaint form by email, by fax, by mail, or in person. Contact information for the board is available on the department's website.

580.2(2) A written complaint should include the following facts:

- a. The full name and contact information of the complainant.
- b. The full name, address, or contact information of the licensee or registrant against whom the complaint is filed.
- c. A statement of the facts concerning the alleged acts or omissions.

481—580.3(153) Investigation. Pursuant to Iowa Code sections 147.87, 147.88, 153.33, 272C.3 and 272C.4, the board may authorize department staff to investigate the allegations of a complaint to determine whether probable cause exists.

481—580.4(17A,153,272C) Investigatory subpoenas. Pursuant to Iowa Code sections 17A.13(1), 153.33(3)“d” and 272C.6(3), the board has the authority to issue an investigatory subpoena to compel the production of evidence deemed necessary in connection with the investigation of a complaint. A subpoena issued by the board in connection with such investigation may compel the production of evidence whether or not it is privileged or confidential under law. The board may not compel the types of evidence stipulated in Iowa Code section 272C.6(3)“a”(2).

580.4(1) The executive director or designee may, upon the written request of a board investigator or on the director's own initiative, issue a subpoena in accordance with Iowa Code sections 17A.13(1), 153.33(3)“d” and 272C.6(3). In the case of a subpoena, when seeking access to mental health records, all of the following conditions shall be satisfied prior to the issuance of the subpoena:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
- b. Adequate safeguards have been established to prevent unauthorized disclosure;

c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and

d. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

580.4(2) A written request for a subpoena or the director's written memorandum in support of the issuance of a subpoena shall contain all of the following:

- a. The name and address of the person to whom the subpoena will be directed;
- b. A specific description of the books, papers, records or other real evidence requested;
- c. An explanation of why the documents sought to be subpoenaed are necessary for the board to determine whether it should initiate a contested case proceeding; and
- d. In the case of a subpoena request for mental health records, confirmation that the conditions described in subrule 580.4(1) have been satisfied.

580.4(3) Each subpoena shall contain all of the following:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records or other real evidence requested;
- c. The date, time and location for production or inspection and copying;
- d. The time within which a motion to quash or modify the subpoena must be filed;
- e. The signature, address and contact information of the executive director or designee who issued the subpoena;
- f. The date of issuance; and
- g. A return of service attached to the subpoena.

580.4(4) Any person who is aggrieved or adversely affected by compliance with the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.

580.4(5) Upon receipt of a timely motion to quash or modify a subpoena, the board may conduct a hearing on the matter and issue a decision, or refer such hearing and decision to an administrative law judge to conduct a hearing and issue a decision.

- a. Oral argument may be scheduled at the discretion of the board or the administrative law judge.
- b. Following the conclusion of such hearing, the board or administrative law judge shall issue a decision. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

580.4(6) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving a notice of appeal within ten days of the date of service of the decision of the administrative law judge on the executive director, either in person or by certified mail.

580.4(7) If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either the person is notified the investigation has been concluded with no formal action, or there is a final decision in the contested case.

481—580.5(153) Board appearances. The board may request a licensee or registrant to appear before the board to discuss a pending investigation. By electing to participate in the board appearance, the licensee or registrant waives any objection to a board member's both participating in the appearance and later participating as a decision maker in a contested case proceeding on the grounds of a personal investigation and a combination of investigative and adjudicative functions. If the executive director or designee participates in the appearance, the licensee or registrant further waives any objection to having the executive director or designee assist the board in the contested case proceeding.

481—580.6(153) Peer review. Pursuant to Iowa Code section 272C.3(1) “i,” the board may refer a complaint for peer review, investigation and report by another licensee, another registrant or a committee established by the board for such purpose.

580.6(1) The board shall determine which licensee, registrant, or peer review committee will review a case involving a dentist or dental assistant. The dental hygiene committee shall make such determinations in a case involving a dental hygienist. Peer reports and recommendations will be forwarded to the dental hygiene committee for further review and decision making.

580.6(2) The board or dental hygiene committee may request that the Iowa dental association, the Iowa dental hygienists’ association and the Iowa dental assistants association assist in the composition of a peer review committee as needed.

580.6(3) Pursuant to Iowa Code sections 147.135, 272C.8 and 272C.9 and rule 481—580.11(147,272C), licensees or registrants who serve as peer reviewers shall not be liable for acts, omissions or decisions made in connection with such service.

481—580.7(272C) Duties of peer review committees.

580.7(1) A licensee or registrant who serves as a peer reviewer shall comply with the requirements imposed by Iowa Code sections 22.7 and 272C.6 and rule 481—580.9(272C).

580.7(2) The board may provide investigative and related services to designated peer reviewers.

580.7(3) Designated peer reviewers shall thoroughly investigate a complaint as assigned and provide a written report to the board in accordance with the board’s direction. The peer review shall comply with all of the following:

a. Include a peer review report that contains a statement of facts and a recommendation as to whether a violation of the standard of care occurred, with consideration given to relevant statutes, board rules, ethical standards and standards of care in making its recommendations.

b. Include in the report the signature of each peer reviewer that participated in the investigation. In the case of dissension by a peer reviewer, the dissension should be noted in the report.

c. Submit the peer review report and all investigative information to the board upon completion.

481—580.8(272C) Board review. The board shall review all investigative reports and proceed pursuant to 481—Chapter 506.

481—580.9(272C) Confidentiality of investigative files.

580.9(1) Complaint and investigation files, all other investigation reports and all other information in the possession of the board or peer reviewers acting under the authority of the board, its employees or its agents that relate to licensee or registrant discipline shall be subject to all of the following:

a. Are privileged and confidential;

b. Are not subject to discovery, subpoena, or other means of legal compulsion for their release to any person other than the licensee or registrant and the board, its employees and its agents that are involved in licensee or registrant discipline; and

c. Are not admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee or registrant discipline.

580.9(2) A final written decision and finding of fact of the board in a disciplinary proceeding shall be public record.

481—580.10(272C) Investigation of reports of judgments and settlements. Reports received by the board from the commissioner of insurance, insurance carriers, licensees or registrants involving adverse judgments in a professional malpractice action, and settlement of claims alleging malpractice, shall be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of complaints.

481—580.11(147,272C) Immunities.

580.11(1) Pursuant to Iowa Code sections 147.135, 272C.8 and 272C.6(3) “b,” a person shall not be civilly liable in relation to the following:

- a. Filing a report or complaint with the board;
- b. Disclosing to the board, its agents or employees, whether or not pursuant to a subpoena, records, documents, testimony or other forms of information that constitute privileged matter concerning a recipient of health care services or some other person;
- c. Serving in connection with proceedings of a peer review; and
- d. Serving in connection with other authorized duties of the board.

580.11(2) Immunity from civil liability shall not apply if the act is done with malice.

These rules are intended to implement Iowa Code chapter 17A and sections 153.13, 153.33, 272C.3 and 272C.4.

ARC 8513C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to dental board discipline and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to adopt new Chapter 581, “Dental Board Discipline,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 147.76 and 153.33.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 147, 153, 252J, and 272C.

Purpose and Summary

This proposed rulemaking promulgates Chapter 581 and implements Iowa Code chapters 147 and 153 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code sections 147.76 and 153.33 provide rulemaking authority.

This rulemaking implements Iowa Code chapters 147, 153, 252J and 272C by providing protection to Iowans because it publicly defines required professional standards for those licensed under the Dental Board. This is important to both the public and the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, the rulemaking can subject a licensee to discipline against the licensee’s license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. Public hearings were held on the following date(s):

- October 22, 2024

There were no public comments received with regard to this chapter and no changes were made as a result.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on January 3, 2025. Comments should be directed to:

Jessica O'Brien
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

January 2, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#
January 3, 2025 12 noon to 12:30 p.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa meet.google.com/cvm-tzam-vps Or dial: 575.587.5605 PIN: 850 703 192#

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 581:

CHAPTER 581
DENTAL BOARD DISCIPLINE

481—581.1(147,153,272C) Authority and methods of discipline.

581.1(1) The board has the authority to impose discipline pursuant to Iowa Code title IV, Iowa Code chapter 272C, Iowa Code sections 147.55 and 153.34, and the rules promulgated thereunder.

581.1(2) The board may impose one or more methods of disciplinary action in accordance with Iowa Code sections 153.34 and 272C.3(2).

481—581.2(153,272C) Discretion of the board. The board may consider the following factors in determining the nature and severity of the disciplinary action to be imposed in accordance with Iowa Code section 272C.15:

1. The relative seriousness of the violation as it relates to ensuring the citizens of this state a high standard of professional care.
2. The facts of the particular violation.
3. Any extenuating circumstances or other countervailing considerations.
4. Number of prior violations or complaints.
5. Seriousness of prior violations or complaints.
6. Whether remedial action has been taken.
7. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee or registrant.

481—581.3(147,153,272C) Grounds for discipline. Violations of the provisions of Iowa Code chapter 272C and sections 147.55, 153.32, 153.34 and 272C.15 and other applicable sections of Iowa law shall constitute grounds for the imposition by the board of disciplinary action pursuant to rule 481—581.1(147,153,272C). This rule is not subject to waiver pursuant to 481—Chapter 6 or any other provision of law.

581.3(1) The following violations related to notification, compliance and other state laws constitute grounds for disciplinary action:

- a. Failure to comply with the requirements of 481—Chapter 584, except as otherwise provided by law;
- b. Failure to preserve the confidentiality of patient information or accessing any confidential patient information without authorization;
- c. Practice of dentistry, dental hygiene or dental assisting beyond training;
- d. Delegation of any acts to any licensee or registrant that are beyond the training or education of the licensee or registrant, or that are otherwise prohibited by rule;
- e. Failure to comply with requirements related to prescribing, administering or dispensing any drug pursuant to Iowa Code chapter 124, the provisions of Iowa Code chapter 155A that are applicable to the practice of dentistry, and 481—Chapter 578;
- f. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to, a patient or a coworker;
- g. Actions that are abusive, coercive, intimidating, harassing, untruthful or threatening in the practice of dentistry; or
- h. Failure to comply with an order of the board.

581.3(2) The following violations related to infection control constitute grounds for disciplinary action:

- a. Failure to maintain adequate safety and sanitary conditions for a dental office; or
- b. Failure to comply with standard precautions for preventing and controlling infectious diseases and managing personnel health and safety concerns related to infection control, as required or recommended for dentistry by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and the Iowa occupational safety and health administration.

581.3(3) Violations related to continuing education constitute grounds for disciplinary action:

- a. Failure to respond to the board during a continuing education audit, or failure to submit verification of continuing education requirements within the time period provided;
- b. Knowingly submitting a false report of continuing education; or

c. Failure to meet the required continuing education hours per renewal period.

581.3(4) Violations related to board investigations constitute grounds for disciplinary action:

a. Interference with, or knowingly providing false information to the board or an agent of the board related to, an inspection or investigation;

b. Failure to comply with a subpoena issued by the board;

c. Failure to fully and promptly comply with office inspections conducted at the request of the board to determine compliance with sanitation and infection control standards or sedation permit requirements;

d. Failure to cooperate with a board investigation; or

e. Retaliating against, threatening or coercing any person for filing a complaint with the board or cooperating with a board inspection or investigation.

581.3(5) The following violations may constitute grounds for disciplinary action:

a. Failure to notify the board of change of name or address within 60 days;

b. Failure to prominently display the names of all persons who are practicing dentistry, dental hygiene or dental assisting within an office; or

c. Giving or receiving cash or cash equivalents, or giving or receiving any gifts exceeding nominal value, for referral of patients.

481—581.4(272C) Prohibited grounds for discipline. The board shall not suspend or revoke the license of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

These rules are intended to implement Iowa Code chapters 147, 153, 252J, 272C and 598.

ARC 8491C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

The Iowa Finance Authority hereby proposes to rescind Chapter 2, “Loan Programs,” Chapter 4, “General Revenue Bond Procedures,” Chapter 30, “Qualified Midwestern Disaster Area Bond Allocation,” Chapter 32, “Iowa Jobs Program,” Chapter 37, “Recovery Zone Bond Allocation,” and Chapter 38, “Iowa Jobs II Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 16.5, 16.5C, 16.38 and 16.39.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 16.4, 16.5, 16.5C, 16.38 and 16.39; 2009 Iowa Acts, Senate File 376; 2010 Iowa Acts, House File 2487; 2010 Iowa Acts, Senate File 2389; Executive Order 9 (November 7, 2008); and the federal Heartland Disaster Tax Relief Act of 2008.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to permanently rescind the following obsolete and unnecessary chapters:

- Chapter 2, which describes the policies and procedures applicable to provide origination and servicing of mortgage and temporary loans from the Authority. The chapter does not apply to any current loan programs administered by the Authority.
- Chapter 4, which describes the policies and procedures applicable to issue revenue bonds for any of the purposes for which financing is authorized under Iowa Code chapter 16. The chapter does not apply to current bond issues by the Authority.
- Chapter 30, which describes the policies and procedures that allocate authority to issue up to a specified amount of qualified midwestern disaster area bonds. The chapter is no longer applicable. The subject bonds ceased to be available in 2012.
- Chapter 32, which describes the policies and procedures applicable to the Authority's responsibilities as to the Iowa Jobs Program. The program has been discontinued.
- Chapter 37, which describes the policies and procedures of the recovery zone bond allocation and compliance. The chapter is no longer applicable. Iowa Code section 16.171, which authorized the rules, was repealed in 2014.
- Chapter 38, which describes the policies and procedures applicable to the Authority's responsibilities as to the Iowa Jobs II Program. The program has been discontinued.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 4, 2024. A public hearing was held on the following date(s):

- September 24, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on January 9, 2025. Comments should be directed to:

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50309
Email: lisa.connell@iowaeda.com

Public Hearing

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

January 7, 2025 1:30 to 1:45 p.m.	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review
January 9, 2025 1:30 to 1:45 p.m.	1963 Bell Avenue, Suite 200 Des Moines, Iowa

Registration information for online participation may be found at
www.iowafinance.com/red-tape-review

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

- ITEM 1. Rescind and reserve **265—Chapter 2.**
- ITEM 2. Rescind and reserve **265—Chapter 4.**
- ITEM 3. Rescind and reserve **265—Chapter 30.**
- ITEM 4. Rescind and reserve **265—Chapter 32.**
- ITEM 5. Rescind and reserve **265—Chapter 37.**
- ITEM 6. Rescind and reserve **265—Chapter 38.**

ARC 8466C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

**Proposing rulemaking related to title guaranty division
and providing an opportunity for public comment**

The Iowa Finance Authority hereby proposes to rescind Chapter 9, "Title Guaranty Division," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 16.5 and 16.91.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 16.2A, 16.4C, 16.5, 16.90 to 16.93, 17A.10 and 535.8.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 9 and adopt a new chapter in lieu thereof. The chapter describes the structure, policies, and procedures of the Iowa Title Guaranty Division (Division) of the Authority.

The new chapter eliminates language that is duplicative of statutory language, eliminates unnecessary and inconsistent language, removes unnecessarily restrictive terms and updates outdated language. Additionally, the following changes from the existing chapter are proposed:

- The definition of “commitment” in rule 265—9.1(16) will be clarified.
- Rule 265—9.4(16) will be updated to provide correct contact information for the Division.
- The process to obtain a title plant waiver, currently addressed in rule 265—9.7(16), will be streamlined by removing the requirement that the Division Board approve such waivers.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 4, 2024. A public hearing was held on the following date(s):

- September 24, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on January 9, 2025. Comments should be directed to:

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50309
Email: lisa.connell@iowaeda.com

Public Hearing

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

January 7, 2025 2 to 2:15 p.m.	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review
January 9, 2025 2 to 2:15 p.m.	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review

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

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

Review by Administrative Rules Review Committee

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

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 265—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9 TITLE GUARANTY DIVISION

265—9.1(16) Definitions. The following words and phrases, when used in this chapter, shall have the meanings set forth below unless a meaning is inconsistent with the manifest intent or the context of a particular rule:

“Abstract” means a written or electronic summary of all matters of record affecting title to a specific parcel of real estate prepared in accordance with abstract minimum standards adopted by the division, provided however, that for nonpurchase transactions, “abstract” may also mean a written or electronic short-form summary setting forth the titleholders, liens, and encumbrances in accordance with guidelines adopted by the division.

“Abstractor” means a person who is engaged in the practice of searching public records for the purpose of creating abstracts.

“Authority” means the Iowa finance authority established by Iowa Code chapter 16.

“Certificate” means the form used to guarantee title, including any part or schedule thereof and any endorsements thereto.

“Claim” means loss or damage or potential loss or damage arising by reason of a matter actually, possibly, or allegedly within the coverage of a commitment, certificate, closing protection letter, mortgage release certificate, or by reason of any other matter for which the division is actually, possibly, or allegedly liable.

“Claim loss” means amounts paid by the division in the investigation and resolution of a claim including, but not limited to, payments to the guaranteed, payments to adverse claimants, attorneys' fees, and all other expenses and costs related to or arising from the claim.

“Closing protection letter” means the division's written agreement to indemnify a lender or borrower or both for loss caused by a participating closer's theft of settlement funds or failure to comply with written closing instructions relating to title certificate coverage when agreed to by the participating closer.

“Commitment” means the division's written offer to issue a certificate and any endorsements thereto.

“Division” means Iowa title guaranty, a division of the authority.

“Division board” means the board of the division created pursuant to Iowa Code section 16.2A(1).

“Field issuer” means a participant authorized by the division to issue commitments and certificates.

“Mortgage release certificate” means a certificate of release or a certificate of partial release issued by the division, pursuant to Iowa Code section 16.92.

“Participant” means a participating attorney, a participating abstractor, or a participating closer.

“Participating abstractor” means an abstractor who is authorized by the division to prepare abstracts for division purposes.

“Participating attorney” means an attorney licensed to practice law in the state of Iowa who is authorized by the division to prepare title opinions for division purposes.

“Participating closer” means any of the following authorized by the division to issue a closing protection letter: an Iowa licensed attorney disbursing funds through an interest on lawyer trust account, a closing agent licensed by the Iowa division of banking, or a real estate broker licensed by the Iowa real estate commission disbursing funds through a real estate trust account.

“Party” means a participant, or any other person, who has a contractual relationship with the division to provide services for which a claim may be brought against the division.

“*Person*” means an individual or legal entity, including corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

265—9.2(16) Mission. The mission of the division is to operate a program that offers guaranties of real property titles in order to provide, as an adjunct to the abstract-attorney’s title opinion system, a low-cost mechanism to facilitate mortgage lenders’ participation in the secondary market and add to the integrity of the land-title transfer system in the state of Iowa and to perform other duties as assigned by Iowa law.

265—9.3(16) Organization.

9.3(1) Location. The office of the division is located at the address set forth in rule 265—1.3(16). Office hours are 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The division’s website address is www.iowatitleguaranty.com, and the division’s telephone number is 515.452.0484. The division’s email address is titleguaranty@iowafinance.com. Inquiries, submissions, applications and other requests for information may be directed to the division by the methods set forth herein.

9.3(2) Meetings. Meetings of the division board will generally be held quarterly on the date and time determined by the division board, or in accordance with Iowa Code section 16.2A(6). The division will give advance public notice of each division board meeting pursuant to Iowa Code chapter 21. Division board meetings may be conducted by conference call. Any person may attend and observe division board meetings except for any portion of a division board meeting that may be closed pursuant to Iowa Code section 21.5. The minutes of the division board meetings are available at the office of the division and on the division’s website. A board member who has a conflict of interest may not vote on substantive actions of the division board.

265—9.4(16) Operation. The division offers guaranties of real property titles in the state through the issuance of commitments and certificates.

9.4(1) Commitments, certificates, forms and manuals. The terms, conditions, and form of commitments and certificates shall be approved by the division board. The division may adopt and use manuals and other forms as the division deems necessary for implementation and administration of the title guaranty program.

a. The division will provide forms to a participant for use in issuing commitments and certificates on behalf of the division. A participant may not alter any form supplied by the division or use a form supplied by another person to bind the division. In addition, the participant shall not transfer or attempt to transfer unissued commitments or certificates to another participant or other person unless authorized in writing by the division.

b. In addition to the division’s other rights and remedies, the division may refuse to allow the participant access to any forms until the participant complies with the requirements of this chapter to the satisfaction of the division.

c. A participant shall be liable to the division for loss or damage sustained by the division by reason of the failure of the participant to comply with the requirements of this rule.

9.4(2) Application for commitments and certificates. The division will make an application for commitments and certificates available on the division’s website.

9.4(3) Rates. Rates for commitments, certificates and closing protection letters shall be set pursuant to Iowa Code section 16.91(1). In transactions involving extraordinary risk or unusual or unique endorsements, the division may assess additional charges.

265—9.5(16) Participants.

9.5(1) General provisions. An applicant shall submit a participant application and the first year’s annual fee and shall sign a participation agreement in order to be authorized to provide one or more services on behalf of the division.

9.5(2) Participant application. Applications for participation and renewal are available on the division’s website. An applicant shall submit an application to provide one or more services on behalf of

the division. If the applicant is approved as a participant, the participant is required to submit a renewal application annually.

9.5(3) *Eligibility considerations.* To determine whether to approve or deny a participant application, factors the division may consider include but are not limited to the following:

- a. The needs of the public and the needs of existing or potential customers of the applicant.
- b. A history of the operation and management of the applicant's business.
- c. The character, fitness, financial responsibility and experience of the applicant and the applicant's employees.
- d. A credit report or criminal background check of the applicant or the applicant's employees.
- e. A record of default in the payment of moneys collected for others by the applicant or the applicant's employees.
- f. A history of discharge of debts by the applicant or the applicant's employees through bankruptcy proceedings.
- g. Compliance with the title and settlement best practices adopted by the division.
- h. Other factors as determined by the division.

9.5(4) *Participation agreement.* The participation agreement sets forth the contractual relationship between the participant and the division. A new participation agreement is executed annually and when otherwise required by the division.

9.5(5) *Annual fee.* A participant may be required to pay an annual fee of \$75, set pursuant to Iowa Code section 16.91(4).

9.5(6) *Agent relationship.* A participant is only authorized to act as an agent of the division for the purposes and in the manner set forth in the participant's participation agreement, Iowa Code, these rules, manuals and any other written instructions given by the division. The authority of a participant to act as an agent of the division is not exclusive and is subject to the rights of the authority, the division, and other participants, agents, or representatives of the division.

9.5(7) *Conflict of interest.* A participant shall not, without prior authorization of the division, prepare an abstract or issue a title opinion, commitment, certificate, or closing protection letter for a transaction in which the participant has a personal or financial interest in the real estate that is the subject of that transaction.

9.5(8) *Clearance of title objections.* All title objections must be cleared in accordance with applicable division manuals and any other written instructions given by the division prior to the issuance of a certificate. Any underwriting determination about which there may be a bona fide difference of opinion among attorneys, which is not specifically addressed by division manuals or instructions, shall be approved by the division in writing.

9.5(9) *Commitment and certificate coverage limitations.* A field issuer shall obtain written authorization from the division prior to issuing a commitment or certificate that exceeds the allowable maximum amount of coverage, as determined by the division. If authorization under this subrule is not obtained through the act or omission of the field issuer, the field issuer shall be strictly liable to the division for any loss or damage resulting from issuance of the commitment, closing protection letter, or certificate.

9.5(10) *Document retention.* A participant shall maintain transaction files in such a manner that information pertaining to activities of the participant is readily available to the division while protecting confidential client information. A participant shall retain files for a period of ten years after the issued date of the certificate or the issued date of the commitment if a certificate is not issued.

9.5(11) *Training.* The division may require a participant and the participant's staff to participate in training sessions or continuing education seminars as deemed necessary by the division to ensure compliance with division requirements and procedures.

9.5(12) *Compliance.* Participants shall comply with Iowa Code, these rules, the participation agreement, manuals, and any other written instructions given by the division. The division may audit the participant, with or without notice, for verification of compliance. An audit may include but not be limited to a review of the participant's abstracts, title opinions, commitment and certificate issuance

procedures, a test of title plants and tract indices, and a review of closing policies and procedures and escrow account details.

9.5(13) Revocation. The division may revoke a participant's authorization to provide services on behalf of the division for reasons, including but not limited to the following:

- a. Failure to comply with the terms and conditions of the participation agreement.
- b. Failure to submit an annual renewal application.
- c. Knowingly withholding or misrepresenting material facts relied upon by the division.
- d. Fraud, theft, dishonesty, or misappropriation of funds or documents.
- e. Deterioration of the participant's financial condition adversely affecting the participant's ability to provide services on behalf of the division.
- f. A finding by the division director of material noncompliance with Iowa Code, these rules, manuals, and any other written instructions given by the division.
- g. Other factors as determined by the division.

265—9.6(16) Services offered.

9.6(1) Abstracting. Abstracts utilized for division purposes must be prepared by a participating abstractor.

a. *Title plant.* A participating abstractor shall own and maintain, or lease and use, a title plant, including tract indices for each county in which that participating abstractor prepares abstracts for division purposes, unless exempt under Iowa Code section 16.91(5) "a"(2) and paragraph 9.6(1) "c" or authorized under Iowa Code section 16.91(5) "b" and paragraph 9.6(1) "d." Each of the tract indices shall be designated to encompass a geographical area of not more than one block in the case of platted real estate, nor more than one section in the case of unplatted real estate. The tract indices shall include a reference to all of the instruments affecting real estate recorded in the office of the county recorder, and the tract indices shall commence not less than 40 years prior to the effective date of the abstractor's participation in the title guaranty program. A government-maintained and -controlled database is not considered a title plant for division purposes.

b. *Intent to build title plant.* The division may authorize an abstractor that is building or that intends to build a title plant to prepare abstracts for division purposes, upon review of the following:

- (1) The abstractor's business plan;
- (2) Evidence that a title plant will be built for a specific county or counties within three years of authorization;
- (3) A time line for completion of the title plant; and
- (4) A description of the applicant's abstracting experience.

c. *Exemption.* The exemption available pursuant to Iowa Code section 16.91(5) "a"(2) is unique to the participating attorney, is nontransferable, and terminates at such time as the participating attorney ceases providing abstracts for division purposes or upon the death or incapacity of the participating attorney.

d. *Title plant waivers.* The division recognizes the 40-year title plant as the preferred method of providing title evidence for the purpose of issuing commitments and certificates. The division must weigh the benefits of the traditional title plant with other alternatives to ensure buyers and lenders a high quality of certificates throughout the state, rapid service, and a competitive price.

(1) *General provisions.* The division shall consider an application for a title plant waiver upon submission by an attorney or an abstractor.

(2) *Submission of application.* The division shall accept applications in the same manner as provided in subrule 9.5(2).

(3) *Content of application.* The applicant must provide, at a minimum, the following information:

1. The name, business address, email address, and telephone number of the applicant;
2. The applicant's business plan;
3. The county or counties in which the applicant intends to abstract;
4. A description of the applicant's abstracting experience;
5. Samples of abstracts prepared by the applicant;

6. A history of any professional disciplinary action against the applicant;
7. Professional references in support of the applicant;
8. The relevant facts that the applicant believes would justify a waiver under Iowa Code section 16.91(5) “b”; and

9. A signed statement from the applicant attesting to the accuracy of the facts provided in the application.

(4) Notification and response.

1. The division shall notify the applicant upon receipt of a complete application.
2. The Iowa State Bar Association and Iowa Land Title Association shall be provided notice of an application. Provision of the notice to the identified associations is not a requirement for the division to consider the application, and failure to inform an interested person of an application shall not void or otherwise nullify any action or decision of the division.

(5) Conditions. A waiver is unique to the recipient and is nontransferable. The division may limit a waiver as to county, transaction type, duration, or any other limitation. The division may require a waiver recipient to provide a guarantee, performance bond, or other form of indemnification as assurance for abstracts prepared by the waiver recipient on behalf of the division. The division may review the waiver annually and may require a renewal, modification or addition to any required assurances. An applicant may only retain a waiver if the applicant continues to meet the requirements for a participant in rule 265—9.5(16). If the waiver recipient fails to meet the terms of the recipient’s participation agreement, the waiver may be withdrawn by the division.

(6) Withdrawal of a waiver. A waiver issued by the division may be withdrawn or modified if, after public notice and division board meeting, the division board issues a written ruling finding any of the following:

1. That the waiver recipient knowingly withheld or misrepresented material facts relied upon by the division in granting the waiver; or
2. That the waiver recipient failed to comply with all conditions contained in the written ruling; or
3. That the abstracts prepared by the waiver recipient fail to meet the abstract minimum standards adopted by the division; or
4. That the division has revoked the waiver recipient’s authorization to provide services on behalf of the division pursuant to subrule 9.5(13).

The decision of the division board shall be final agency action, and all appeals shall be filed with the Iowa District Court for Polk County.

9.6(2) *Issuing title opinions.*

a. All title opinions shall be prepared by participating attorneys and issued in compliance with division procedures as specified in manuals and any other written instructions given by the division.

b. A participating attorney who is a field issuer may issue a commitment as the preliminary title opinion and the certificate as the final title opinion.

c. A participating attorney shall be licensed to practice law in the state of Iowa and shall be in good standing with the Iowa supreme court at all times while acting as an agent of the division.

9.6(3) *Issuing commitments and certificates.* Pursuant to a participation agreement with the division, a participant may be authorized to issue a commitment or certificate on behalf of the division. A participant’s right to issue commitments and certificates is a privilege for the convenience of the division and may be terminated pursuant to terms of the participation agreement.

9.6(4) *Issuing closing protection letters.*

a. Pursuant to a participation agreement with the division, a participant may be authorized to issue a closing protection letter on behalf of the division.

b. The division may require the participating closer to provide an irrevocable letter of direction to the institution at which each escrow account is established, authorizing the division to review and audit the institution’s records of such account at any time that the division, in its discretion, deems necessary.

265—9.7(16) Claims.

9.7(1) *Claim procedures.* In the event of a claim, the rights of the division and a party are as follows:

a. Upon receipt of notice by a party of a claim, the party must notify the division in writing within three business days of receipt of information about a claim by the party and shall mail notification to the division by first-class mail at the division's address as set forth in rule 265—1.3(16) or provide notification by email.

b. When a party receives a request from the division for information with respect to a claim, the party shall supply to the division any documents, correspondence, surveys, abstracts of title, title searches, title opinions, other writings, or other information known by or available to the party and relevant to the claim, even if not specifically requested by the division.

c. A party shall cooperate fully in the investigation and resolution of a claim and shall supply any additional, new information that may come to the party's attention with such promptness as the circumstances permit.

d. The division may, with or without prior notice to the party or parties involved, investigate and resolve any claim in any manner that, in the division's sole discretion, the division may deem advisable.

9.7(2) *Claim loss recovery.*

a. Any claim losses paid are recoverable from a party by the division.

b. In the absence of knowledge by the party about the title defect or other matter causing the claim loss, the division shall not seek recovery from the party when a claim loss arises from one or more of the following:

(1) Hidden defects, including but not limited to forged deeds and mortgages, false affidavits, and false statements of marital status;

(2) Errors by public officials in maintaining and indexing the public records, including but not limited to errors by county assessors, recorders, clerks, and treasurers;

(3) Errors in these rules, manuals, and any other written instructions given by the division that the party relies upon in issuing an abstract, title opinion, commitment, closing protection letter or certificate;

(4) Errors in surveys provided by registered Iowa land surveyors that the party relies upon in issuing a certificate that provides survey coverage; or

(5) Underwriting determinations or title risks approved by the division prior to issuance of the abstract, title opinion, commitment, closing protection letter, or certificate.

c. The party shall reimburse the division for a claim loss when the division determines, in accordance with paragraph 9.7(2) "*d.*," that the party is liable and when the claim loss arises from one or more of the following:

(1) Errors by the party in the preparation of an abstract or any other report of information in the public record;

(2) Reliance by the party upon sources of title searches and other title information that had not been approved by the division at the time of the reliance;

(3) Errors made by the party in examining the title information provided in an abstract, survey, affidavit, or other source of title information;

(4) Errors made by the party in the preparation or review of an abstract, title opinion, commitment, closing protection letter, or certificate;

(5) Issuance of an abstract, title opinion, commitment, closing protection letter or certificate by the party with knowledge that title is defective; or

(6) Failure of the party to follow Iowa Code, these rules, manuals, or any other written instructions given by the division.

d. Unless another rule, Iowa Code, manuals, or any other written instruction given by the division provides for a different standard of liability or other rule for determining whether the party shall be liable for a claim loss, the division shall apply the following standards:

(1) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2) "*c.*"(1), the division may demand reimbursement from the party if the party was grossly negligent in preparing the abstract. Gross negligence includes the failure to make a search or

the use of inadequate search procedures. Gross negligence under the preceding sentence includes but is not limited to failure to search certain indices, failure to search all names of parties with an interest in the real estate, or failure to search in all public offices required by the division search procedures or procedures used by prudent title searchers if the division has not established specific search procedures. In making its determination whether to seek recovery, the division may consider the complexity of the public record, the reliance of the party upon division-approved search procedures, the training and experience of the person who made the error, and the existence or nonexistence of previous search errors by the party.

(2) In the event that a claim loss occurs for which the division may seek recovery from a party under subparagraph 9.7(2)“c”(2), the division may demand reimbursement from that party if the party relied upon sources of abstracts or other title information that had not been approved by the division at the time of the reliance.

(3) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)“c”(3), the division may demand reimbursement from the party if the party negligently examined the title information used in making a title determination, failed to raise an appropriate exception, waived an exception, or endorsed a commitment or certificate.

1. The division may make full review of local county abstracting standards and title standards as a guide to determine whether the party has failed to meet the standard of skill and competence of an abstractor who prepares an abstract or an attorney who examines titles in the community where the claim arose.

2. The division may also consider whether the party followed Iowa Code, these rules, manuals, or any other written instructions given by the division in examining the title.

3. In addition, the division may seek input from other parties in the community in which the claim arose as to the standard of care of an abstractor who prepares an abstract or of an attorney who examines titles in that community.

(4) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)“c”(4), the division may demand reimbursement from the party if the party negligently prepared or reviewed an abstract, title opinion, commitment, closing protection letter, or certificate.

(5) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)“c”(5), the division may demand reimbursement from the party if the issuance of the abstract, title opinion, commitment, closing protection letter, or certificate constituted fraud, concealment or dishonesty, or if the issuance of the abstract, title opinion, commitment, closing protection letter or certificate was based upon an underwriting decision on an unusual risk that was made without contacting the division for approval.

(6) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)“c”(6), the division may demand reimbursement from the party if the party failed to follow Iowa Code, these rules, manuals, or any other written instructions given by the division with respect to the matter causing the claim loss.

(7) In the event the division seeks reimbursement from a party, the division shall state the basis of the reimbursement.

265—9.8(16) Mortgage release certificate. Pursuant to Iowa Code section 16.92, the division is charged with the administration of a program to release, after proper notification, paid-off mortgages from real estate titles in Iowa by executing and filing with the county recorder a mortgage release certificate.

9.8(1) Application. The division will provide a mortgage release application on the division’s website.

9.8(2) Application fee. An applicant may be required to pay a fee of \$200 to apply for a mortgage release certificate. The fee shall be set by the division.

9.8(3) Maximum principal amount of mortgage. The division board may set a maximum principal amount for mortgages that may be released by a mortgage release certificate.

9.8(4) Authority to sign certificate. A mortgage release certificate shall be executed by the division director or designee of the division director.

265—9.9(16) Rules of construction. In this chapter, the following rules of construction shall be observed:

1. The word “shall” means mandatory and not permissive and the word “may” means permissive and not mandatory.
2. Nothing contained in this chapter shall be construed to require a participating attorney to disclose privileged information of a client to the division or to any other person.
3. Any rule that provides a specific remedy or sanction for violation of the rule shall not be construed as limiting the ability of the division to pursue and enforce other remedies or sanctions under this chapter, or otherwise against a participant or other person responsible or liable, either separately, concurrently, cumulatively, or in any combination, at the sole discretion of the division.
4. The failure of the division to enforce a right or remedy under this chapter, a statute, or common law shall not be construed as a waiver of such right or remedy either in the specific instance or in any other instance.

These rules are intended to implement Iowa Code sections 16.2A, 16.4C, 16.5, 16.90 through 16.93, 17A.10 and 535.8.

ARC 8481C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rulemaking related to public records and fair information practices and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to rescind Chapter 13, “Public Records and Fair Information Practices,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 22.11.

Purpose and Summary

Pursuant to Executive Order 10 (January 10, 2023), the Authority proposes to rescind Chapter 13 and to adopt a new chapter in lieu thereof. The new chapter will incorporate the text of the Uniform Rules on Agency Procedure regarding fair information practices in addition to other information required to be addressed by Iowa Code section 22.11.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 8, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on January 9, 2025. Comments should be directed to:

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50309
Email: lisa.connell@iowaeda.com

Public Hearing

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

January 7, 2025 2:15 to 2:30 p.m.	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review
January 9, 2025 2:15 to 2:30 p.m.	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 265—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

265—13.1(16,22) Definitions. As used in this chapter:

“*Authority*” means the Iowa finance authority created in Iowa Code section 16.1A.

“Confidential records” means records, as identified in Iowa Code section 22.7 or any other provision of law, that are not disclosed to members of the public unless otherwise ordered by a court, by the custodian of the records, or by another person duly authorized to release the records. A record may be partially or wholly confidential.

“Custodian” means a lawful custodian as defined in Iowa Code section 22.1.

“Open record” means a record other than a confidential record.

“Personally identifiable information” means information about or pertaining to an individual in a record that identifies the individual and that is contained in a record system.

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

“Record system” means any group of records under the control of the authority from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

“Request for confidential treatment” means a request, made pursuant to rule 265—13.4(16,22), for the authority to treat a record as a confidential record and withhold such record from public inspection.

265—13.2(16,22) Requests for access to authority records.

13.2(1) *Location of record.* A request for access to an authority record should be directed to the Iowa finance authority, located at the address set forth in rule 265—1.3(16). If a request for access to a record is misdirected, authority staff will promptly forward the request to the appropriate person within the authority.

13.2(2) *Office hours.* Open records are available during customary office hours of 8 a.m. to 4:30 p.m. on Monday through Friday, excluding legal holidays.

13.2(3) *Request for access.* Requests for access to authority records may be made in writing, including by email, in person, or by telephone. Requests must identify the particular records sought by name or description in order to facilitate the location of the record. A request made other than in person must include the name, email address, if available, and telephone number of the person requesting the information. If a person asks to be mailed paper copies of a record, a mailing address must be included in the request. A person is not required to give a reason for requesting an open record.

13.2(4) *Response to requests.* The authority is authorized to grant or deny access to records according to the provisions of Iowa Code chapter 22, this chapter or any other provision of law. Access to an open record shall be granted promptly upon request. If the size or nature of the request necessitates time for compliance, the authority shall comply with the request as soon as possible. The authority may delay access to a record for any of the reasons set forth in Iowa Code section 22.8(4) or 22.10(4). The authority must promptly give written notice to the requester of the reason for any delay in access to a record and the estimated length of that delay.

13.2(5) *Security of record.* No person may, without permission from the authority, search or remove any record from authority files. Examination and copying of records will be done under the supervision of authority staff to ensure records are protected from damage and disorganization.

13.2(6) *Copying.* The authority will permit the copying of records as described in Iowa Code section 22.3.

13.2(7) *Fees.* The authority may charge fees for records as authorized by Iowa Code section 22.3 or another provision of law. An hourly fee may be estimated in advance and charged for actual authority expenses in the inspection, reviewing, and copying of requested records when the total staff time dedicated to fulfilling the request requires an excess of two hours. When the estimated fee chargeable under this subrule exceeds \$25, the authority may require a requester to make an advance payment of all or part of the estimated fee. When a requester has previously failed to pay a fee charged under this subrule, the authority may require advance payment of the full amount of any estimated fee before the authority processes a new or pending request for access to records from that requester, as well as payment in full of the amount previously owed.

265—13.3(16,22) Access to confidential records. The following procedures for access to confidential records are in addition to those specified for all authority records in rule 265—13.2(16,22).

13.3(1) A person requesting access to a confidential record may be required to provide proof of identity or authority if access to the record is limited to a particular person or class of persons.

13.3(2) The authority may require a request for access to a confidential record to be in writing. A person requesting access to a confidential record may be required to sign a certified statement or affidavit enumerating the specific grounds justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

13.3(3) When the authority denies a request for access to a confidential record, in whole or in part, the requester shall be notified in writing. The written notice will include:

- a.* The name and title or position of the person or persons responsible for the denial; and
- b.* A brief statement of the grounds for the denial, including a citation to the applicable provision of law vesting authority in the authority to deny disclosure of the record.

13.3(4) When the authority grants a request for access to a confidential record to a particular person, the authority will indicate any lawful restrictions imposed by the authority on that person's examination and copying of the record.

265—13.4(16,22) Requests for confidential treatment.

13.4(1) A request for confidential treatment must be submitted in writing to the authority and:

- a.* Identify the information for which confidential treatment is sought.
- b.* Cite the legal and factual basis for confidential treatment.
- c.* Identify the name, address, telephone number, and email address, if available, of the person authorized to respond to any inquiry or action of the authority concerning the request.
- d.* Specify the precise period of time for which the confidential treatment is requested, if applicable.

13.4(2) The authority may request additional factual information from the person requesting confidential treatment.

13.4(3) The authority must notify the requester in writing of the granting or denial of the request. If a request for confidential treatment is denied, the authority shall notify the requester in writing of the reasons for its denial. Pursuant to Iowa Code section 22.8, the authority may reasonably delay examination of the record. However, if the authority determines that the requester had no reasonable grounds for the request for confidential treatment, then such record shall not be withheld from public inspection for any period of time after the denial of the request. The authority may notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The authority may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the authority to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

13.4(4) Failure of a person to request confidential treatment for a record does not preclude the authority from treating it as a confidential record.

265—13.5(16,22) Additions, dissents or objections. Except as otherwise provided by law, the person who is the subject of a record may have a written statement of additions, dissents or objections entered into that record. The statement must be filed with the authority, must be dated and signed by the person who is the subject of the record, and include the person's current address and telephone number, and email address, if available. This rule does not authorize the person who is the subject of the record to alter the original record or to expand the official record of any authority proceeding.

265—13.6(16,22) Notices to suppliers of information. The authority will notify suppliers of information of the use that will be made of the information, which persons outside the authority might routinely be provided the information collected and identify which parts of the requested information are required and which are optional and will state the consequences of failing to provide the information.

This notice may be given in the authority's rules, on written forms used to collect the information, in contracts, in program guidance, verbally, or by other appropriate means.

265—13.7(16,22) Disclosure of records—consent.

13.7(1) *Disclosure for routine use.* In this chapter, “routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose that is compatible with the purpose for which the record was collected. To the extent allowed by law, the following uses are considered routine uses of all authority records, including confidential records:

- a. Disclosure to those officers, employees, and agents of the authority who have a need for the record in the performance of their duties.
- b. Disclosure to a contractor, including but not limited to the department of inspections, appeals, and licensing, for matters in which it is performing services or functions on behalf of the authority.
- c. Transfers of information within the authority, to other state agencies, or to units of local government as appropriate to administer the program for which the information is collected.
- d. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the authority is operating a program lawfully.
- e. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

13.7(2) *Other disclosures of confidential records.* To the extent allowed by law, the following uses may result in disclosure of confidential records without the consent of the subject:

- a. Disclosure to a recipient who has provided the authority with advance written assurance that the record will be used solely as statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.
- b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.
- c. Disclosure to another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of such government agency or instrumentality has submitted a written request to the authority specifying the record desired and the law enforcement activity for which the record is sought.
- d. Disclosure pursuant to a showing of compelling circumstances affecting the health or safety of any individual.
- e. Disclosure to the legislative services agency under Iowa Code section 2A.3.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. Disclosure in response to a court order or subpoena.

13.7(3) *Consent to disclosure of confidential records.*

a. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to the subject or to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed and, if applicable, the time period during which the record may be disclosed. The person who is the subject of the record and, if applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity.

b. When a record has multiple subjects with interest in the confidentiality of the record, the authority may take reasonable steps to protect confidential information relating to another subject.

265—13.8(16,22) Availability of records.

13.8(1) Authority open records are open for public inspection and copying unless otherwise prohibited by current rule or law.

13.8(2) Certain records identified in rules 265—13.9(16,22) and 265—13.10(16,22), or otherwise maintained by the authority, may be confidential records, in whole or in part, and not routinely made available for public inspection pursuant to Iowa Code section 22.7 or other applicable law.

265—13.9(16,22) Personally identifiable information.

13.9(1) The authority collects personally identifiable information pursuant to Iowa Code chapter 16, federal statutes and regulations governing federal programs and the issuance of debt by the authority, and other applicable laws. Personally identifiable information is stored by electronic and physical methods. The authority's record systems do not match, collate or compare personally identifiable information in each system with personally identifiable information contained in other record systems. The authority's record systems can collect, maintain and retrieve information by personal identifiers, including names, mailing addresses, and email addresses. This rule describes the nature and extent of personally identifiable information that is collected, maintained and retrieved by the authority by personal identifier in record systems.

13.9(2) *Program records.* Records of persons or organizations participating in the authority's programs are collected by the authority. These records may contain information about individuals collected pursuant to specific federal or state statutes or regulations. Personally identifiable information, such as name, address, social security number and telephone number, may be included in these records when the applicant is an individual. Portions of program records may be confidential pursuant to Iowa Code section 22.7 or other applicable law.

13.9(3) *Correspondence.* Records of correspondence from persons outside the authority or sent to persons outside the authority may contain personally identifiable information provided by the sender or recipient of such correspondence. Portions of correspondence may be confidential pursuant to Iowa Code section 22.7 or other applicable law.

13.9(4) *Litigation files.* The authority maintains records regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. These records contain materials that are confidential as attorney work product and attorney-client communications pursuant to Iowa Code sections 22.7(4), 622.10 and 622.11; Iowa Rule of Civil Procedure 1.503(3); Federal Rule of Civil Procedure 26(b)(3); the rules of evidence; the Code of Professional Responsibility; and case law. Some materials are confidential under other applicable provisions of law or as directed by a court order.

13.9(5) *Personnel files.* The authority maintains files containing information about employees, families and dependents, and applicants for positions with the authority. Portions of personnel files may be confidential pursuant to Iowa Code section 22.7(11).

13.9(6) *Bond records.* The authority maintains records related to bonds as provided in Iowa Code section 76.10. Such records may be confidential pursuant to Iowa Code section 22.7(17).

265—13.10(16,22) Other groups of records. This rule describes groups of records maintained by the authority other than record systems. These records are routinely available to the public. All or portions of such records may contain confidential information pursuant to Iowa Code section 22.7 or other applicable law. The records are stored by electronic and physical methods.

13.10(1) *Rulemaking records.* Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

13.10(2) *Meeting records.* Agendas, minutes and materials presented to boards and other bodies associated with the authority are available from the authority, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5(4) or that are otherwise confidential by law. Authority meeting records contain information about people who participate in meetings. The information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier.

13.10(3) *Publications.* News releases, annual reports, project reports, newsletters, and related documents are available from the authority. Authority news releases, project reports, and newsletters

may contain information about individuals, including authority staff. This information is not retrieved by individual identifier.

13.10(4) *Statistical reports.* Periodic reports for various authority programs are available from the authority. Statistical reports do not contain personally identifiable information.

13.10(5) *Published materials.* The authority uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

13.10(6) *Policy manuals.* The authority employees' manual, containing procedures describing the authority's regulations and practices, is available. Policy manuals do not contain information about individuals.

13.10(7) *Other records.* All other records that are not exempt from disclosure by law are available from the authority.

265—13.11(16,22) Applicability. This chapter does not:

13.11(1) Require the authority to index or retrieve records that contain information about an individual by that person's name or other personal identifier.

13.11(2) Make available to the general public records that would otherwise not be available pursuant to Iowa Code chapter 22.

13.11(3) Govern the maintenance or disclosure of, notification of, or access to records in the possession of the authority that are governed by the regulations of another agency.

13.11(4) Make available records compiled by the authority in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, rules of discovery, evidentiary privileges and applicable regulations of the authority.

These rules are intended to implement Iowa Code chapters 16 and 22.

ARC 8480C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rulemaking related to state housing trust fund and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to rescind Chapter 19, "State Housing Trust Fund," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 16.5 and 16.181.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 16.5 and 16.181.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 19 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Housing Trust Fund established pursuant to Iowa Code section 16.181.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 4, 2024. A public hearing was held on the following date(s):

- September 24, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on January 9, 2024. Comments should be directed to:

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50309
Email: lisa.connell@iowaeda.com

Public Hearing

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

January 7, 2025 1:45 to 2 p.m.	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review
January 9, 2025 1:45 to 2 p.m.	1963 Bell Avenue, Suite 200 Des Moines, Iowa Registration information for online participation may be found at www.iowafinance.com/red-tape-review

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 265—Chapter 19 and adopt the following **new** chapter in lieu thereof:

CHAPTER 19
STATE HOUSING TRUST FUND

265—19.1(16) Trust fund allocation plans. The state housing trust fund is established pursuant to Iowa Code section 16.181.

19.1(1) The authority shall allocate funds in the state housing trust fund according to Iowa Code section 16.181 and the following allocation plans:

- a.* The Iowa Finance Authority State Housing Trust Fund Allocation Plan for the Local Housing Trust Fund Program dated September 8, 2021; and
- b.* Iowa Finance Authority State Housing Trust Fund Allocation Plan for the Project-Based Housing Program dated August 5, 2009.

19.1(2) The trust fund allocation plans for the local housing trust fund program and the project-based housing program include the plans, applications, and application instructions. The trust fund allocation plans for the local housing trust fund program and the project-based housing program are incorporated by reference pursuant to Iowa Code section 17A.6.

265—19.2(16) Location of copies of the plans. The trust fund allocation plans for the local housing trust fund program and the project-based housing program will be posted on the authority’s website at www.iowafinance.com. The plans incorporate by reference Iowa Code section 16.181.

These rules are intended to implement Iowa Code sections 16.5(1)“r” and 16.181.

ARC 8543C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to congenital and inherited disorders and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 4, “Center for Congenital and Inherited Disorders,” and to adopt a new Chapter 4, “Congenital and Inherited Disorders,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 136A.8 and 144.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 136A and 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

This proposed rulemaking provides the parameters for the administrative oversight of the Iowa Newborn Screening Program, Iowa Maternal Prenatal Screening Program (IMPSP), Regional Genetic Consultation Service, Neuromuscular and Related Genetic Disease Program, and Iowa Registry for Congenital and Inherited Disorders (IRCID).

The proposed chapter also eliminates references to the Congenital and Inherited Disorders Advisory Committee pursuant to 2024 Iowa Acts, Senate File 2385.

Finally, a Red Tape Review was performed pursuant to Executive Order 10, which was scheduled to occur in calendar year 2025.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliance@hhs.iowa.gov

Public Hearing

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

January 16, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 297 224 919 887 Passcode: TpBUop
January 21, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 255 649 705 881 Passcode: BsEBSV

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
CONGENITAL AND INHERITED DISORDERS

641—4.1(136A) Definitions. For the purposes of this chapter, the following definitions apply:

“Anonymized specimen” means a specimen that cannot be traced back to or linked with the particular individual from whom the specimen was obtained.

“Attending health care provider” means the same as defined in Iowa Code section 136A.2.

“Birth defect” means any major structural abnormality or metabolic disorder that may adversely affect a child’s health and development. The abnormality or disorder must be diagnosed or its signs and symptoms must be recognized within the first two years of life.

“Birthing facility” means a private or public facility licensed pursuant to Iowa Code chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services.

“Central laboratory” means the state hygienic laboratory (SHL), which is designated as the screening laboratory to perform testing and reporting for the Iowa newborn screening and Iowa maternal prenatal screening programs.

“Central registry” means the Iowa registry for congenital and inherited disorders (IRCID).

“Congenital condition” means a condition that exists at birth and may be hereditary, result from an action or exposure occurring during pregnancy or at birth, or may be due to a combination of both factors.

“Consulting physician” means a physician designated by the center for congenital and inherited disorders to interpret screen results and provide consultation to a licensed health care provider.

“Critical congenital heart disease” or *“CCHD”* means the presence of one or more of the following specific heart lesions: hypoplastic left heart syndrome, pulmonary atresia, Tetralogy of Fallot, total anomalous pulmonary venous return, transposition of the great arteries, tricuspid atresia, and truncus arteriosus.

“Council” means the council on health and human services.

“Discharge” means a release of an infant from a hospital or birth center.

“Early ACCESS” means the statewide, comprehensive, interagency system of integrated early intervention services that supports eligible children and their families as defined in 281—Chapter 120.

“Early hearing detection and intervention program” means Iowa’s newborn hearing screening and follow-up program, which ensures that all newborns and toddlers with hearing loss are identified as early as possible and provided with timely and appropriate audiological, educational and medical intervention and family support.

“Follow-up program” means the services provided to follow up on an abnormal screening result.

“Guardian” means a person who is not the parent of a minor child, but who has legal authority to make decisions regarding life or program issues for the child.

“Health care provider” means a licensed physician, nurse practitioner, certified nurse midwife, registered nurse, or physician assistant providing medical care to an individual.

“Iowa maternal prenatal screening program” or *“IMPSP”* means a program that provides a screening test designed to identify increased risk of having a baby with a congenital or inherited disorder or developing a problem later in pregnancy.

“Iowa newborn screening panel” or *“newborn screening panel”* means the list of disorders for which the department screens Iowa newborns.

“Iowa newborn screening program” or *“INSP”* means a program that provides screening of live-born Iowa newborns for the disorders listed on the Iowa newborn screening panel.

“Neuromuscular disorder” means Duchenne, Becker, congenital, distal, Emery-Dreifuss, facioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal muscular dystrophy.

“Newborn critical congenital heart disease (CCHD) screening” means the screening of newborns for seven targeted heart conditions (hypoplastic left heart syndrome, pulmonary atresia, tetralogy of Fallot, total anomalous pulmonary venous return, transposition of the great arteries, tricuspid atresia, and truncus arteriosus) using pulse oximetry or other means to detect blood oxygen saturation levels.

“Primary health care provider” means a licensed physician, physician assistant, nurse practitioner, or certified nurse midwife providing ongoing primary medical care to a patient.

“Receiving facility” means the facility receiving an infant from a birthing facility.

“Residual maternal prenatal serum screening specimen” means the portion of the specimen that may be left over after all necessary activities of the Iowa maternal prenatal screening program are completed.

“Residual newborn screening specimen” means the portion of the dried blood spot specimen that may be left over after all activities necessary for the Iowa newborn screening program are completed.

“Specialty genetics provider” means a medical geneticist, genetic nurse, genetic physician assistant, genetic nurse practitioner, or genetic counselor.

“State hygienic laboratory” or *“SHL”* means the designated central testing laboratory.

“Stillbirth” means the same as defined in Iowa Code section 136A.2.

“Transferring facility” means the birthing facility that transfers the infant to another facility.

641—4.2(136A) Iowa newborn screening program (INSP). This program provides comprehensive newborn screening services for hereditary and congenital disorders for the state.

4.2(1) Newborn screening policy.

a. All newborns and infants born in the state of Iowa shall be screened for all congenital and inherited disorders on the Iowa newborn screening panel as specified by the department.

b. As new disorders are recognized and new technologies and tests become available, the department will develop and follow protocols for the addition of disorders to or the deletion of disorders from the screening panel.

c. The department may monitor individuals identified as having a genetic or metabolic disorder for the purpose of conducting public health surveillance or intervention and for determining whether early detection, treatment, and counseling lead to the amelioration or avoidance of the adverse outcomes of the disorder. Birthing facilities and health care providers shall provide patient data and records to the department upon request to facilitate the monitoring. Any identifying information provided to the department shall remain confidential pursuant to Iowa Code section 22.7(2).

d. For purposes of newborn screening, the department will collect newborn screening specimens and data, test the specimens for disorders on the universal screening panel, conduct follow-up on abnormal screening results, conduct quality improvement and quality assurance activities, and store specimens for a time period determined by its policies.

4.2(2) Newborn blood spot screening procedure for facilities and providers.

a. *Educating parent or guardian.* Before a specimen from an infant is obtained, a parent or guardian will be informed of the type of specimen, how it is obtained, the nature of the disorders for which the infant is being screened, the consequences of treatment and nontreatment, and the retention, use and disposition of residual specimens.

b. *Refusal of screening.* Should a parent or guardian refuse the screening, said refusal shall be documented in the infant’s medical record, and the parent or guardian shall sign the refusal of screening form. The birthing facility or attending health care provider shall submit the signed refusal of screening form to the INSP within six days of the refusal. The birthing facility or attending health care provider may submit refusal forms via the courier service established for the transportation of newborn screening specimen collection forms or via secure fax.

c. *Collection of specimens.* A filter paper blood specimen shall be collected from the infant between 24 to 48 hours after the infant’s birth. A specimen shall not be collected from an infant less than 24 hours after birth except as follows:

(1) A blood specimen must be collected before any initial transfusion, even if the infant is less than 24 hours old.

(2) A blood specimen must be collected before the infant leaves the hospital, whether by discharge or by transfer to another hospital, even if the infant is less than 24 hours old.

d. *Submission of specimens.* All specimens shall be delivered to the SHL via courier service or, if courier service is not available, overnight postage, overnight express delivery service, or other appropriate means within 24 hours after collection.

4.2(3) Primary health care provider responsibility.

a. The health care provider or a designee shall ensure that infants under the provider’s care are screened.

b. Procedures for specimen collection for newborn blood spot screening shall be followed in accordance with subrule 4.2(2).

c. A physician or other health care professional who undertakes primary pediatric care of an infant delivered in Iowa shall arrange for the newborn screening if a newborn screening result is not in the infant's medical record.

d. The primary care provider of an infant delivered in Iowa shall discuss the newborn screening results with the parent or guardian of the newborn, including follow-up on abnormal results.

4.2(4) Birthing facility. The birthing facility shall ensure that all infants receive newborn screening.

a. Designee. Each birthing facility shall designate an employee to be responsible for the newborn screening program in that institution.

b. Procedures for specimen collection for newborn screening shall be followed in accordance with subrule 4.2(2).

c. Transfer. The following apply if an infant is transferred:

(1) If an infant is transferred within the hospital for acute care, the newborn nursery shall notify the acute care unit of the status of the newborn screening. The acute care unit shall then be responsible for the status of the newborn screening prior to discharge of the infant.

(2) If the infant is transferred to another facility within the state, the facility shall notify the receiving facility of the status of the newborn screening. The receiving facility shall then be responsible for completion of the newborn screening prior to discharge of the infant.

d. Discharge. Each birthing facility shall collect a newborn screening specimen on every infant prior to discharge, including under the following circumstances:

(1) The infant is discharged or transferred to another facility before the infant is 24 hours old.

(2) The infant is born with a condition that is incompatible with life.

(3) The infant has received a transfusion.

e. Notification. The birthing facility shall report the newborn screening results to the health care provider who has undertaken ongoing primary pediatric care of the infant.

4.2(5) SHL responsibility. The SHL will:

a. Contract with a courier service to provide transportation and delivery of newborn screening specimens.

b. Contact all birthing facilities to provide education on ordering specimen transport from the courier.

c. Process specimens within 24 hours of receipt.

d. Notify the submitting health care provider, birthing facility, or drawing laboratory of an unacceptable specimen and the need for another specimen.

e. Report a presumptive positive screen result within 24 hours to the consulting physician or the physician's designee.

f. Distribute specimen collection forms, specimen collection procedures, refusal of newborn screening forms, and other materials to drawing laboratories, birthing facilities, and health care providers.

g. Report normal and abnormal screening results to the submitting facility or provider.

h. Submit a written annual report of the previous calendar year to the department by July 1 of each year. This report will include:

(1) Number of infants screened,

(2) Number of repeat screens,

(3) Number of presumptive positive results by condition and disorder,

(4) Number of rejected specimens,

(5) Number of waivers,

(6) Results of quality assurance testing including any updates to the INSP quality assurance policies, and

(7) Screening and educational activity details.

i. In collaboration with the program consulting physicians, submit a proposed budget and narrative justification for the upcoming state fiscal year by January 31 of each year.

j. Act as fiscal agent for program expenditures encompassing the analytical, technical, administrative, educational, and follow-up costs for the screening program.

k. Submit a fiscal expenditures report to the department within 90 days after the end of the state fiscal year.

4.2(6) *Follow-up program responsibility.* Follow-up programs will be available for all individuals identified by the newborn screening as having an abnormal screen result.

a. The follow-up activities will include care coordination, consultation, genetic counseling or recommendations for treatment when indicated, case management, education and quality assurance.

b. The follow-up programs shall submit a written annual report of the previous calendar year by July 1 of each year. The report shall include:

(1) The number of presumptive positive results and confirmed positive results by condition and disorder,

(2) Number of confirmed cases receiving follow-up,

(3) A written summary of educational and follow-up activities.

c. In collaboration with the SHL, the follow-up programs shall submit a proposed budget and narrative justification for the upcoming fiscal year to the department by January 31 of each year.

d. The follow-up programs shall submit a fiscal expenditures report to the department within 90 days of the end of the state fiscal year.

4.2(7) *Information sharing and confidentiality.* Reports, records, and other information collected by or provided to the Iowa newborn screening program relating to an infant's newborn screening results and follow-up information are confidential records pursuant to Iowa Code sections 22.7 and 136A.7. INSP data may be retained for 19 years.

a. Personnel of the program shall maintain the confidentiality of all information and records used in the review and analysis of newborn screening and follow-up, including information that is confidential under Iowa Code chapter 22 or any other provisions of state law.

b. The program shall not release confidential information, except to the following persons and entities under the following conditions:

(1) The parent or guardian of an infant or child or the adult individual for whom the report is made.

(2) A primary health care provider, birthing facility, or submitting laboratory.

(3) A representative of a state or federal agency or agents of tribes and tribal public health authorities to the extent that the information is necessary to perform a legally authorized function of that agency or the department. No data shall be furnished to state or federal agencies or agents of tribes or tribal public health agencies until the department has prepared in writing the conditions under which the data may be used and has received an agreement signed by a responsible agent of the state or federal agency agreeing to meet and conform to such conditions.

(4) A researcher, upon documentation of parental consent obtained by the researcher, and only to the extent that the information is necessary to perform research authorized by the department.

c. Newborn screening information shall not be released to any person or entity for commercial purposes or law enforcement purposes or to establish a database for forensic identification.

4.2(8) *Retention, use and disposition of residual newborn screening specimens.*

a. A newborn screening specimen collection form consists of a filter paper containing the dried blood spots (DBS) specimen and the attached requisition that contains information about the infant and birthing facility or drawing laboratory. The DBS specimen can be separated from the information contained in the requisition form. The INSP is the custodian of the specimens and related data for purposes of newborn screening, quality improvement and quality assurance activities.

(1) The residual DBS specimen shall be held for five years in a locked area at the SHL.

(2) The residual DBS specimen shall be stored for the first year at -75 to -80 degrees C.

(3) After one year, the residual DBS specimen shall be archived for four additional years at room temperature.

(4) The residual DBS specimen shall be incinerated after completion of the retention period.

b. The program shall not release a residual newborn screening specimen except to the following persons and entities:

(1) The parent or guardian of the infant or the individual adult upon whom the screening was performed.

(2) A health care provider acting on behalf of the patient.

(3) A medical examiner authorized to conduct an autopsy on a child or an investigation into the death of a child.

(4) A researcher, upon documentation of parental consent obtained by the researcher, and only to the extent that the information is necessary to perform research authorized by the department.

(5) The newborn screening program, for operations as provided in this rule.

c. Research. A residual newborn screening specimen may be released for research purposes only if written consent has been received by the researcher from a parent or guardian of the child, or the individual adult upon whom the screening was performed, and each of the following conditions is satisfied:

(1) Investigators shall submit proposals to use residual newborn screening specimens to the department. Any intended use of the requested specimens as part of the research study must be clearly delineated in the proposal.

(2) Before research can commence, proposals shall be approved by the researcher's institutional review board and the department.

(3) Research on residual newborn screening specimens shall be allowed only in instances where research would further: newborn screening activities; the health of an infant or child for whom no other specimens are available or readily attainable; general medical knowledge for existing public health surveillance activities; public health purposes; or medical knowledge to advance the public health.

d. Newborn screening program operations. Residual newborn screening specimens and related data may be used for activities, testing, and procedures directly related to the operation of the newborn screening program, including confirmatory testing, laboratory quality control assurance and improvement, equipment calibration, evaluation and improvement of the accuracy of newborn screening tests, and equipment and screening methods validation, and for the use of linked specimens in feasibility studies approved by the council for the purpose of incorporating new tests or evaluating new test methodologies.

e. Prohibited uses. A residual newborn screening specimen shall not be released to any person or entity for commercial purposes or law enforcement purposes or to establish a database for forensic identification.

f. Return or destruction of specimens. A parent or guardian may request return or destruction of the parent's or guardian's newborn's residual newborn screening specimen by contacting the department.

4.2(9) *Newborn screening for critical congenital heart disease.* All newborns and infants born in Iowa shall receive newborn screening for CCHD, by pulse oximetry or other means in accordance with subparagraph 4.2(9) "b"(3). The purpose of newborn screening for CCHD is to identify newborns with structural heart defects usually associated with hypoxia in the newborn period that could have significant morbidity or mortality early in life with the closing of the ductus arteriosus or other physiological changes early in life.

a. *Newborn CCHD screening procedure for providers and facilities.*

(1) Educating parent or guardian. Before newborn screening for CCHD on an infant is conducted, a parent or guardian shall be informed of the type of screening, how it is performed, the nature of the conditions and disorders for which the infant is being screened, and the follow-up procedure for an abnormal screen result.

(2) Refusal. Should a parent or guardian refuse the screening, said refusal shall be documented in the infant's medical record, and the parent or guardian shall sign the refusal of screening form. The birthing facility or attending health care provider shall submit the signed refusal form to the central laboratory within six days of the refusal. The birthing facility or attending health care provider may submit refusal forms via the courier service established for the transportation of newborn screening specimen collection forms or via secure fax.

b. *Newborn CCHD screening for newborns in low-risk or intermediate nurseries or out-of-hospital births.*

(1) Screening should not begin until the newborn is at least 24 hours of age, or as late as possible if earlier discharge is planned, and should be completed on the second day of life.

(2) Screening shall be conducted using pulse oximeters or other means in accordance with subparagraph 4.2(9) “b”(3). Pulse oximeters shall:

1. Be motion tolerant;
2. Report functional oxygen saturation;
3. Be validated in low-perfusion conditions;
4. Be cleared by the Food and Drug Administration (FDA) for use on newborns; and
5. Have a 2 percent root-mean-square accuracy.

Disposable or reusable probes may be used. Reusable probes must be appropriately cleaned between uses according to manufacturer’s instructions.

(3) Newborn CCHD screening shall be conducted by pulse oximetry or other means in accordance with the most recently published guidelines, algorithms, and protocols as outlined by the American Academy of Pediatrics, the American College of Cardiology Foundation and the American Heart Association, or subsequent guidance by the organizations listed in this subparagraph. Materials are available on the department’s website.

c. Newborn CCHD screening for high-risk newborns in neonatal intensive care unit (NICU). Until such time that an evidence-based protocol for CCHD screening in infants discharged from the NICU is available, the attending health care provider shall conduct a comprehensive examination of the newborn to screen the infant for CCHD prior to discharge.

d. Primary health care provider responsibility. The health care provider shall ensure that infants under the provider’s care are screened.

e. Reporting results of newborn CCHD screening. Results of newborn CCHD screening shall be reported in a manner consistent with other newborn screening reporting.

4.2(10) INSP and IMPSP fees.

a. In consultation with the department, the SHL shall establish the newborn screening fee schedule in a manner sufficient to support the newborn screening system of care including but not limited to laboratory screening costs, short-term and long-term follow-up program costs, the newborn screening developmental fund, and the cost of the department’s newborn screening data system.

b. The SHL shall include as part of the INSP fee an amount to fund the provision of special medical formula and foods for eligible individuals with inherited diseases of amino acids and organic acids who are identified through the programs.

c. Funds collected through newborn screening fees will be used for newborn screening program activities only.

d. Funds collected through maternal prenatal screening fees will be used for maternal prenatal screening activities only.

e. In order to support newborn and maternal prenatal screening activities, the department will authorize the expenditure and exchange of newborn screening and maternal prenatal screening developmental funds between the SHL (as designated fiscal agent) and the department.

f. A portion of INSP and IMPSP fees will be distributed to the department to support activities of the INSP and the IMPSP.

4.2(11) Special medical formula and foods program.

a. A special medical formula and foods program for individuals with inherited diseases of amino acids and organic acids who are identified through the Iowa newborn screening program is provided by the University of Iowa.

b. Payments received from clients based on third-party payment, sliding fee scales and donations shall be used to support the administration of and the purchase of special medical formula and foods.

c. The funding allocation from the Iowa newborn screening program fee will be used as the funder of last resort after all other available funding options have been pursued by the special medical formula and foods program.

d. Provisions of special medical formula and foods through this funding allocation shall be available to an individual only after the individual has shown that all benefits from third-party payers,

including but not limited to health insurers; health maintenance organizations; Medicare; Medicaid; Special Supplemental Food Program for Women, Infants and Children program (WIC); and other government assistance programs have been exhausted. In addition, a full fee and a sliding fee scale shall be established and used for those persons able to pay all or part of the cost. Income and resources shall be considered in the application of the sliding fee scale. Individuals whose income is at or above 185 percent of the federal poverty level shall be charged a fee for the provision of special medical formula and foods. Placement of individuals on the sliding fee scale shall be determined and reviewed at least annually.

- e.* The SHL will act as the fiscal agent.
- f.* The University of Iowa Health Care Medical Center under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.

641—4.3(136A) Iowa maternal prenatal screening program (IMPSP). This program provides comprehensive maternal prenatal screening services for the state.

4.3(1) Maternal screening. The IMPSP provides a risk assessment for certain congenital or inherited conditions and disorders of a newborn. The department will identify the minimum conditions included in the assessment on the department's website.

a. If a patient desires this screening test, the health care provider shall direct that a specimen be drawn and submitted to the SHL or a laboratory with the capacity to provide screening for the minimum type of prenatal screening services.

b. As new technologies and tests become available, the department will develop and follow protocols for the addition or deletion of conditions and disorders from the screening program.

4.3(2) Maternal screening procedure.

a. Specimen collection. A serum or clotted blood specimen shall be collected from the patient within the appropriate gestational range indicated by the requested screen.

b. Specimen processing. The SHL will test specimens within three working days of receipt.

c. Reporting abnormal results. Abnormal screen results shall be reported within 24 hours to the consulting physician or the physician's designee, who shall then notify the primary health care provider. On the next working day, this initial report shall be followed by a written report to the primary health care provider.

4.3(3) Consulting physician responsibility. A consulting physician shall be designated by the department to provide interpretation of screen results and consultation to the submitting health care provider. This physician shall provide consultation for abnormal screen results, assist with questions about management of identified cases, provide education and assist with quality assurance measures. The screening program, with assistance from the consulting physician, shall:

a. In collaboration with the SHL, submit a proposed budget and narrative justification for the upcoming fiscal year to the department by January 31 of each year, and

b. Submit a written annual report of the previous calendar year's activity to the department by July 1 of each year. The report will include:

- (1) Number of persons screened,
- (2) Number of repeat screens,
- (3) Number of abnormal results by condition and disorder,
- (4) Number of rejected specimens,
- (5) Results of quality assurance testing, and
- (6) Screening and educational activity details.

4.3(4) SHL responsibility. The SHL will:

a. Contract with a courier service to provide transportation and delivery of maternal prenatal serum specimens.

b. Contact all entities submitting specimens to recommend use of the courier service to transport specimens to the SHL.

c. Test specimens within seven working days of receipt.

d. Distribute specimen collection kits and other materials to health care provider offices and drawing facilities as required.

e. Inform the submitting health care provider or drawing facility of an unacceptable specimen and request another specimen.

f. Provide educational materials concerning specimen collection procedures to health care provider offices.

g. Have available for review a written quality assurance program covering all aspects of its screening activity.

h. Act as a fiscal agent for program charges encompassing the analytical, technical, administrative, educational and follow-up costs for the screening program.

4.3(5) IMPSP fee determination. The department will annually review and determine the fee to be charged for all activities associated with the IMPSP. The review and determination of the fee will be completed at least one month prior to the beginning of the fiscal year.

4.3(6) Information sharing and confidentiality. Reports, records, and other information collected by or provided to the IMPSP relating to a patient's maternal prenatal screening results and follow-up information are confidential records pursuant to Iowa Code section 22.7.

a. Personnel of the program shall maintain the confidentiality of all information and records used in the review and analysis of maternal serum screening and follow-up, including information that is confidential under Iowa Code chapter 22 or any other provisions of state law.

b. The program shall not release confidential information except to the following persons and entities, under the following conditions:

(1) The patient for whom the report is made.

(2) A primary health care provider or submitting laboratory.

(3) A representative of a state or federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state or federal agency will be subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa.

c. Maternal prenatal information shall not be released to any person or entity for commercial purposes or law enforcement purposes or to establish a database for forensic identification.

4.3(7) Retention, use and disposition of residual maternal prenatal screening specimens. The residual serum specimens shall be held for a specified period of time in a locked area at the SHL in accordance with SHL policy and procedures.

641—4.4(136A) Regional genetic consultation service (RGCS). This program provides comprehensive genetic and genomic services statewide through outreach clinics.

4.4(1) Provision of comprehensive genetic and genomic services. The department will contract with the division of medical genetics and genomics within the department of pediatrics at the University of Iowa to provide genetic and genomic health care and education outreach services for individuals and families within Iowa.

4.4(2) The University of Iowa Health Care Medical Center under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.

641—4.5(136A) Neuromuscular and other related genetic disease program (NMP). This program provides comprehensive services statewide for individuals and families with neuromuscular disorders through outreach clinics and statewide, active surveillance for selected neuromuscular disorders.

4.5(1) Comprehensive service provision. The department will contract with the department of pediatrics at the University of Iowa to provide neuromuscular health care, case management and education outreach services for individuals and families within Iowa.

4.5(2) The University of Iowa Health Care Medical Center under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.

641—4.6(136A) Iowa registry for congenital and inherited disorders (IRCID). This program provides active statewide surveillance for congenital and inherited conditions and disorders. These may

include birth defects, neuromuscular disorders, metabolic disorders, and all stillbirths. The program also may conduct active statewide surveillance of live births without a reportable congenital or inherited condition or disorder to serve as controls for epidemiological surveys. Surveillance activities for specific congenital and inherited conditions and disorders and maternal and congenital infections will be conducted for the period of time that adequate financial support is available.

A reportable congenital or inherited condition or disorder occurring in a miscarriage or pregnancy may be included in the IRCID.

4.6(1) *Surveillance policy.*

a. Congenital conditions and disorders, including birth defects, occurring in Iowa are reportable conditions, and records will be abstracted pursuant to rule 641—1.3(139A) and maintained in the IRCID. Congenital conditions and disorders surveillance will be performed in order to determine the occurrence and trends of such conditions and disorders, to determine co-occurring conditions and treatments through annual follow-up abstraction, to conduct thorough and complete epidemiological surveys to identify environmental and genetic risk factors for congenital conditions and disorders, to contribute to prevention strategies, and to assist in the planning for and provision of services to children with congenital conditions and disorders and their families.

b. Records for neuromuscular disorders will be abstracted pursuant to rule 641—1.3(139A) and maintained in the IRCID. Neuromuscular disorders surveillance for individuals of all ages shall be performed to determine the occurrence and trends of the selected neuromuscular disorders, to determine co-occurring conditions and treatments through annual follow-up abstraction, to conduct thorough and complete epidemiological surveys through annual long-term follow-up, and to assist in the planning for and provision of services to individuals with selected neuromuscular disorders and their families.

c. Stillbirths occurring in Iowa are reportable conditions, and records of these stillbirths will be abstracted pursuant to rule 641—1.3(139A) and maintained in the IRCID. Stillbirth surveillance will be performed to determine the occurrence and trends of stillbirths, to conduct thorough and complete epidemiological surveys to identify environmental and genetic risk factors for stillbirths, and to assist in the planning for and provision of services to prevent stillbirths.

4.6(2) *IRCID activities.*

a. The department will establish an agreement with the University of Iowa to implement the activities of the IRCID.

b. The IRCID will use the birth defects, neuromuscular disorders, and stillbirth coding schemes developed by the Centers for Disease Control and Prevention (CDC).

c. The IRCID staff will review hospital records, clinical charts, physician's records, vital records, prenatal records, and fetal death evaluation protocols pursuant to rule 641—1.3(139A), information from the INSP, RGCS, NMP, and the IMPSP, and any other information that the IRCID deems necessary and appropriate for congenital and inherited conditions and disorders surveillance.

4.6(3) *Department responsibility.*

a. When a live infant's medical records are ascertained by the IRCID, the department or its designee will inform the parent or legal guardian by letter that this information has been collected and provide the parent or guardian with information about services for which the child and family may be eligible.

b. The department and the IRCID will annually release aggregate medical and epidemiological information to medical personnel and appropriate state and local agencies for the planning and monitoring of services for children with congenital or inherited conditions and disorders and their families.

4.6(4) *Confidentiality and disclosure of information.* Reports, records, and other information collected by or provided to the IRCID relating to a person known to have or suspected of having a congenital or inherited condition or disorder are confidential records pursuant to Iowa Code sections 22.7 and 136A.7.

a. Personnel of the IRCID and the department shall maintain the confidentiality of all information and records used in the review and analysis of congenital or inherited conditions and disorders, including information which is confidential under Iowa Code chapter 22 or any other provisions of state law.

b. IRCID staff are authorized pursuant to rule 641—1.3(139A) to gather all information relevant to the review and analysis of congenital or inherited conditions and disorders. IRCID staff are permitted to review hospital records, clinical charts, physician's records, vital records, and prenatal records, information from the INSP, RGCS, NMP, and IMPSP and any other information the IRCID deems necessary and appropriate for live births without a reportable congenital or inherited condition and disorder to serve as controls for epidemiological surveys.

c. No individual or organization providing information to the IRCID in accordance with this rule shall be deemed or held liable for divulging confidential information.

4.6(5) Access to information in the IRCID. The IRCID and the department shall not release confidential information except to the following, under the following conditions:

a. The parent or guardian of an infant or child for whom the report is made and who can demonstrate that the parent or guardian has received the notification letter.

b. An Early ACCESS service coordinator or an agency under contract with the department to administer the children with special health care needs program, upon receipt of written consent from the parent or guardian of the infant or child.

c. A local health care provider, upon receipt of written consent from the parent or guardian of the infant or child.

d. A representative of a federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The information provided shall not include the personal identifiers of an infant or child with a reportable congenital or inherited condition or disorder.

e. Researchers. All proposals for research using the IRCID data to be conducted by persons other than program staff shall first be submitted to and accepted by the researcher's institutional review board. Proposals shall then be reviewed and approved by the department before research can commence.

f. A representative of a state agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state agency will be subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa.

These rules are intended to implement Iowa Code chapter 136A.

ARC 8485C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to approval of confirmatory laboratories and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 12, "Approval of Confirmatory Laboratories for Private Sector Drug-Free Workplace Testing," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 730.5(7)"f."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 730.5(7)"f."

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded and adopted new as a part of the Red Tape Review process laid out by Executive Order 10. The purpose of this proposed rulemaking is to allow the Department to approve confirmatory laboratories so that non-Substance Abuse and Mental

Health Services Administration (SAMHSA)-certified laboratories are conducting confirmatory drug testing in accordance with state and federal regulations.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 14, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN
January 17, 2025 1:30 to 2:30 p.m.	Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
APPROVAL OF CONFIRMATORY LABORATORIES FOR
PRIVATE SECTOR DRUG-FREE WORKPLACE TESTING

641—12.1(730) Definitions. For the purpose of these rules, the following definitions apply:

“*Alcohol or drug testing*” means analysis of a sample for the purpose of detecting the presence or absence of alcohol or other drugs, or their metabolites, in the sample tested.

“*CLIA*” means the Clinical Laboratory Improvement Amendments of 1988.

“*CMS*” means the Centers for Medicare and Medicaid Services.

“*GC/MS*” means gas chromatography/mass spectrometry.

“*Laboratory*” means a facility inside or outside the state of Iowa approved to conduct confirmatory testing of samples for the detection of alcohol or other drugs, or their metabolites.

“*Sample*,” for the purpose of these rules, means the substances determined by the department to be samples from the human body capable of accurately and reliably revealing the presence of alcohol or other drugs, or their metabolites, including hair, urine, saliva, breath, and blood.

“*SHL*” means the state hygienic laboratory.

“*Specimen*” means a part taken from a sample to determine the character of the whole sample.

641—12.2(730) Powers and duties. The department is responsible for the following actions:

12.2(1) Processing applications from laboratories requesting approval to conduct confirmatory testing pursuant to Iowa Code section 730.5(7) “f.”

12.2(2) Developing an application package.

a. The department will make an application package available to all laboratories requesting approval to conduct confirmatory testing for alcohol or other drugs, or their metabolites.

b. The package will contain application procedures, a standardized application form and a self-inspection questionnaire.

c. The self-inspection questionnaire will assist the department in assessing the quality of a laboratory’s performance as a confirmatory testing laboratory. This questionnaire will comprise the major but not the sole objective criteria used during the initial on-site inspection conducted by the SHL.

d. The package will be available from the department upon request.

12.2(3) Reviewing each application submitted and determining the adequacy for approval.

12.2(4) Designating the SHL to conduct an on-site inspection of each approved confirmatory laboratory at least once every two years. Inspection may be waived by the director if the laboratory has been inspected and accredited for forensic drug testing by the College of American Pathologists, or if the laboratory has been inspected and certified, licensed, or approved to conduct confirmatory testing by another state whose requirements are at least equal to Iowa’s.

12.2(5) Maintaining and providing upon request an updated list of all approved confirmatory laboratories.

12.2(6) Providing written notice of approval and assigning an expiration date.

641—12.3(730) Application procedures and requirements. Laboratories desiring to conduct confirmatory testing for Iowa’s employers shall apply to the department for approval. Each laboratory requesting Iowa approval to conduct confirmatory testing shall provide the following to the department:

12.3(1) A completed laboratory survey checklist on a form provided by the department.

12.3(2) A completed self-inspection questionnaire provided by the department.

12.3(3) Proof of enrollment in a recognized proficiency testing program. Recognized programs include those approved by CMS.

12.3(4) Acceptable performance over a 12-month period in all appropriate areas of proficiency testing for alcohol or other drugs, or their metabolites, shall be documented and maintained on an ongoing basis. Acceptable performance is as follows:

- a.* Initial approval shall require at least 80 percent accuracy in the last two graded proficiency test cycles with no false positive results.
- b.* Renewal shall require at least 80 percent accuracy each year on graded proficiency surveys with no false positive results.

641—12.4(730) Requirements of laboratory personnel involved in confirmatory testing for alcohol or other drugs, or their metabolites.

12.4(1) The laboratory director shall be a pathologist or doctoral level individual who qualifies as a clinical laboratory director under CLIA regulations.

12.4(2) Supervisors of analysts shall possess at least a bachelor of science degree in chemistry, medical technology, or comparable education and two years of analytical alcohol or drug testing experience. Supervisors must also have training in the theory and practice of laboratory procedures and an understanding of quality control concepts. Annual verification of the supervisor's skills must be documented by the laboratory director.

12.4(3) Analysts shall possess the necessary training and skills for assigned tasks. These individuals shall possess at least two years of college education in the physical or biological sciences. At a minimum, analysts shall be graduates of a medical laboratory technician program that is recognized by the department or have at least two years of college with a minimum of nine semester hours in chemistry.

12.4(4) Laboratory directors, supervisors and analysts involved in alcohol or drug testing shall annually complete at least one in-service continuing education program related to alcohol or drug testing. Continuing education programs include formal training programs where continuing education units are awarded, informal in-house training programs, and relevant correspondence courses. Dates, titles and subject matter for each completed course shall be documented and the information shall be available for review.

12.4(5) The following information about each of the laboratory staff involved in alcohol or drug testing shall be retained for two years from date of termination and shall be available for review:

- a.* Résumé of training and experience.
- b.* Certificate or license.
- c.* Job description.

641—12.5(730) Quality assurance program and procedure manual requirements. All approved confirmatory laboratories shall have a written quality assurance program and a procedure manual that encompasses all aspects of the alcohol or drug testing process.

12.5(1) Approved laboratories shall have written procedures for performing alcohol or drug testing that shall include the following:

- a.* Sample acquisition.
- b.* Chain of custody.
- c.* Sample and report security.
- d.* Test performance.
- e.* Reporting of results.
- f.* Confidentiality.

12.5(2) The quality assurance program and procedure manuals shall be available for review during any on-site inspection.

12.5(3) Approved laboratories shall review their performance in each of the above areas every 12 months.

12.5(4) Approved laboratories are responsible for developing the criteria necessary to establish and maintain an effective quality assurance program for confirmatory testing of alcohol or other drugs, or their metabolites.

641—12.6(730) Analytical quality control. The number and position of control specimens tested within a batch and the number of calibrators used for each batch of specimens shall be consistent with generally accepted laboratory practice for the methodology used to conduct confirmatory testing.

12.6(1) Positive and negative controls shall be used in testing each batch of specimens.

12.6(2) Procedures shall be implemented and documented to ensure that carryover from a positive specimen does not contaminate other subsequent specimens in that batch.

12.6(3) Approved laboratories shall develop criteria for the detection and rejection of adulterated samples.

641—12.7(730) Sample security and confidentiality of test results. Samples and reports must never be left unattended or unsecured.

12.7(1) Complete chain of custody documentation shall be maintained for each sample from the time of collection from the employee or prospective employee to the time the sample is discarded. Each time the sample is handled or transferred, the individual receiving the sample, the time and date of transfer, and the recipient or destination of the sample shall be documented.

12.7(2) If the first portion of the sample yielded a confirmed positive test result, the laboratory shall store the second portion of that sample until receipt of a confirmed negative test result or for a period of at least 45 calendar days following the completion of the initial confirmatory testing. Urine and blood samples shall be retained in secure storage at freezing temperatures.

12.7(3) All samples for which a negative test result was reported shall be disposed of within five working days after issuance of the negative test result report.

641—12.8(730) Confirmatory testing.

12.8(1) Reports for alcohol shall be confirmed by gas chromatography, or a test that is recognized by the department as an equivalent test before being reported as positive (or negative).

12.8(2) Reports for drugs or their metabolites, other than alcohol, shall not be issued in the absence of confirmation by GC/MS or a scientifically equivalent test approved by the department.

12.8(3) Complete chain of custody procedures shall be used for referred samples.

641—12.9(730) Documentation of the confirmatory testing process. The following documents shall be retained for at least two years and, if requested, made available for inspection.

12.9(1) Chain of custody documentation shall be maintained for each sample tested with the identification of the sample, the person(s) handling and testing the sample, the storage of the sample, and the eventual disposal of the sample.

12.9(2) Documents regarding the following: analytical information for each batch assayed, instrument identification, calibration records, identification of reagent lot numbers and expiration dates, quality control results, and any other pertinent information.

12.9(3) Copies of proficiency testing results for ongoing monitoring and evaluation of laboratory performance. Approved confirmatory laboratories inspected by the SHL shall submit copies of proficiency testing results to the SHL or shall ensure that proficiency testing programs submit copies of proficiency testing results directly to the SHL on their behalf.

12.9(4) Current procedure manuals must be maintained for all procedures.

12.9(5) An annual review of manuals shall be performed and documented. Alterations and additions to procedures shall be incorporated into manuals and approved by the laboratory director before implementation.

641—12.10(730) Reporting of confirmed positive test results to the medical review officer.

12.10(1) Each report shall identify the alcohol or other drugs, or their metabolites, being tested with the results of positive/negative or detected/nondetected clearly recorded.

12.10(2) Approved confirmatory laboratories shall have available a written summary of the established sensitivity levels used for the confirmatory tests conducted for alcohol or other drugs, or their metabolites. However, this information need not be issued with each report.

12.10(3) Approved confirmatory laboratories shall have written procedures for making both written and telephone reports to the medical review officer.

12.10(4) All test results must be reviewed and signed by the laboratory director, or a qualified designee, before being reported to the medical review officer.

641—12.11(730) Reporting requirements to department. Pursuant to Iowa Code section 730.5(16), approved confirmatory laboratories shall file a report with the department by March 1 of each year. The report shall include the number of positive and negative drug or alcohol test results for the previous calendar year for the following if available to the laboratory:

1. Employees who work in non-safety-sensitive positions,
2. Employees who work in safety-sensitive positions,
3. Employees during and after completion of drug or alcohol rehabilitation,
4. Employees as a consequence of reasonable suspicion drug or alcohol testing,
5. Prospective employees,
6. As a consequence of federal law or regulation, or by law enforcement,
7. As a consequence of accident investigation in the workplace,
8. The types of drugs which were found in the positive drug tests,
9. All significant available demographic factors relating to the positive test pool, and
10. Total number of positive and negative drug or alcohol test results for the previous calendar year for all employees and prospective employees who were tested.

641—12.12(730) Approval, renewal, and inspection fees. At the time of initial application and each year thereafter, laboratories shall remit to the department a fee in an amount sufficient to reimburse the department for expenses incurred in administering the confirmatory laboratory approval program. All fees shall be made payable to the department and are as follows:

12.12(1) Approval. An administration fee of \$600 is required for new applications, including applicants seeking approval through reciprocity.

12.12(2) Renewal. An administration fee of \$300 is required to renew laboratory approval.

12.12(3) Inspections by the SHL. Reimbursement for actual on-site inspection and related expenses shall be assessed to each laboratory after the completion of each inspection. Expenses related to the on-site inspection shall be reimbursed to the SHL. These expenses shall reflect the actual cost incurred for personnel time and travel expenses consistent with state of Iowa travel reimbursement policies and procedures. These expenses shall also include the time necessary for SHL inspection staff to:

- a. Review the application and related laboratory materials in preparation for the on-site inspection,
- b. Generate the written laboratory report regarding inspection findings,
- c. Conduct postinspection follow-up activities, if any, and
- d. Review proficiency test results on an ongoing basis.

641—12.13(730) Renewal. Laboratories wishing to continue confirmatory testing for alcohol or other drugs, or their metabolites, in Iowa must renew their certification annually. The request for renewal shall include the following:

1. Name and address of laboratory.
2. Renewal fee.
3. Information that reflects any changes that occurred during the current approval period.
4. Copy of supporting documents if the laboratory is accredited for forensic drug testing by the College of American Pathologists, or if it is certified, licensed, or approved through reciprocity.

641—12.14(730) Reciprocity.

12.14(1) Confirmatory laboratories certified, licensed, or approved by another state to conduct testing for alcohol or other drugs, or their metabolites, may request Iowa approval through reciprocity by:

- a. Completing and submitting the department's application package, and

b. Including a copy of their current certificate, license, or approval document from the state whose requirements are at least equal to Iowa's.

12.14(2) Laboratories approved through reciprocity that lose their certification, license or approval from another state shall notify the department within five working days.

641—12.15(730) Changes during approval periods. The following changes that occur during an approval period shall be submitted to the department within five working days from the date the change took place:

1. Change in laboratory director.
2. Change of address.
3. Change in supervisor.
4. Change in confirmation procedures.
5. Change in proficiency testing program.
6. Addition or subtraction of alcohol or other drugs, or their metabolites, being tested.
7. Change of ownership.
8. Loss of accreditation for forensic drug testing by the College of American Pathologists.

641—12.16(730) Enforcement. Upon a determination of noncompliance by the director that these rules have been violated, the director may immediately move to suspend, modify, or revoke any approval issued under these rules.

641—12.17(730) Denial, suspension, modification or revocation of approval. Any one of the following can result in denial, suspension, modification or revocation of approval. Failure of the confirmatory laboratory to:

1. Remain in compliance with the requirements of these rules.
2. Provide required documentation, including documentation of laboratory personnel and proficiency test results.
3. Maintain confidentiality.
4. Meet proficiency testing criteria.
5. Provide correct information.
6. Satisfactorily complete the two most recent and relevant graded proficiency test reports from a recognized proficiency testing program (for initial approval).
7. Correctly represent facts on a self-inspection questionnaire or other application documents.
8. Pass an on-site inspection conducted by the College of American Pathologists for forensic drug testing, or by another state whose requirements are at least equal to Iowa's, or by the SHL.

641—12.18(730) Restoration of approval. A confirmatory laboratory whose approval has been suspended, modified, or revoked may be reinstated within 90 days following the receipt of the following:

1. Documentation of actions that correct the reasons for suspension, modification, or revocation.
2. Documentation of a successful on-site inspection, if necessary, conducted by the College of American Pathologists for forensic drug testing, or by another state whose requirements are at least equal to Iowa's, or by the SHL.

641—12.19(730) Appeals process.

12.19(1) *Denial, suspension, modification, or revocation.* The department will send written notice of denial, suspension, modification, or revocation by certified mail, return receipt requested, pursuant to 441—Chapter 16. The adverse action will become effective 30 days after receipt of the notice unless the applicant, within 90 days, gives written notice to the department requesting a hearing. In that event, the notice will be deemed to be suspended.

12.19(2) *Contested cases.* The procedures for contested cases as set out in Iowa Code chapter 17A and the rules adopted by the department in 441—Chapter 7 will be followed in all cases where proper notice has been made to the department of the intent to formally contest any denial, suspension, modification, or revocation of approval.

641—12.20(730) Complaints.

12.20(1) The department will accept complaints of alleged problems relating to confirmatory laboratory procedures. The information shall state in as specific a manner as possible the basis for the complaint. The complaint shall be presented to the department in writing, in person or by telephone.

12.20(2) Within 20 working days of the receipt of the complaint, the department will communicate with the laboratory director for initial evaluation of the specific matters alleged in the complaint. The complainant will be informed of the results of the action taken by the department.

These rules are intended to implement Iowa Code section 730.5.

ARC 8492C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to community water fluoridation grant program
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 20, “Community Water Fluoridation Grant Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 135.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.11.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded as a part of the Red Tape Review process laid out by Executive Order 10. Currently, this chapter outlines parameters for providing grants to fluoride-deficient public water supplies to assist these communities in implementing water fluoridation.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliance@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 20**.

ARC 8494C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

**Proposing rulemaking related to oral health
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 50, "Oral Health," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 135.14 and 135.15.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 135.14 and 135.15.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded as part of the Red Tape Review process laid out by Executive Order 10. These rules are intended to define the responsibilities of the Dental Director and the Oral Health Bureau.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliance@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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

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

Review by Administrative Rules Review Committee

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

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 50**.

ARC 8507C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to dental screening and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 51, "Dental Screening," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 135.17.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.17.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded and adopted new as part of the Red Tape Review process laid out by Executive Order 10. This proposed chapter outlines the requirements and processes for ensuring children entering kindergarten and ninth grade submit proof of a dental screening to their school and the subsequent audit of screening certificates. The intended benefit is to improve the oral health of Iowa's children through prevention, education, care coordination and referral for treatment.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliance@hhs.iowa.gov

Public Hearing

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

January 14, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN
January 17, 2025 1:30 to 2:30 p.m.	Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 51 and adopt the following **new** chapter in lieu thereof:

CHAPTER 51 DENTAL SCREENING

641—51.1(135) Definitions.

“Admitting official” means the superintendent of schools or the superintendent’s designated representative if a public school; if an accredited nonpublic school, the governing official of the school.

“Applicant” means any person seeking first-time enrollment in kindergarten or ninth grade in a public or accredited nonpublic elementary school or high school in Iowa.

“Dental hygienist” means a person licensed to practice as a dental hygienist.

“Dentist” means a person licensed to practice as a dentist.

“Electronic signature” means a confidential personalized digital key, code, or number that is used for secure electronic data transmission and that identifies and authenticates the signatory.

“Elementary school” means kindergarten through grade six in an Iowa school district or accredited nonpublic school.

“Gum infection” means that gum (gingival) tissue is red, bleeding, or swollen.

“High school” means grades 9 through 12 in an Iowa school district or accredited nonpublic school.

“Injury” means soft tissue laceration or a broken or dislodged tooth.

“I-Smile” means the department program designed to increase access to dental care for children and to ensure a dental home.

“I-Smile coordinator” means a designated dental hygienist who is employed by or under contract with a local public health agency to administer the I-Smile dental home program.

“Local board of health” means a county, city, or district board of health as defined in Iowa Code section 137.102.

“Needs dental care” means that tooth decay or a white spot lesion is suspected in one or more teeth or that gum infection is suspected.

“Needs urgent dental care” means that obvious tooth decay is present in one or more teeth, there is evidence of injury or severe infection, or the child is experiencing pain.

“No obvious problems” means a child’s hard and soft tissues appear to be visually healthy and there is no apparent reason for the child to be seen before the next routine dental checkup.

“Nurse” means a person licensed to practice as a registered nurse or advanced registered nurse practitioner.

“Physician” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery.

“Physician assistant” means a person licensed to practice as a physician assistant.

“Recorder” means a dentist, dental hygienist, physician, physician assistant, or nurse who is authorized to record screening information and sign the Certificate of Dental Screening form.

“Severe infection” means excessive bleeding, swelling, or pus discharge; or an abscess.

“Signature” means an original signature, or authorized use of stamped signature, or electronic signature of a dentist, dental hygienist, physician, physician assistant, or nurse.

“Tooth decay” means a visible cavity or hole in a tooth with brown or black coloration, or a retained root.

“White spot lesion” means a demineralized area of a tooth, usually appearing as a chalky, white spot or white line near the gum line. A white spot lesion is considered an early indicator of tooth decay, especially in primary teeth.

641—51.2(135) Persons included. The dental screening requirements specified in this chapter apply to all persons seeking first-time enrollment in kindergarten or ninth grade in a public or accredited nonpublic elementary school or high school in Iowa.

641—51.3(135) Persons excluded. Exclusions to these rules are permitted on an individual basis for religious and financial hardship reasons. Applicants approved for a religious or financial hardship exemption shall submit to the admitting official a valid department certificate of dental screening exemption.

51.3(1) Religious exemption. A religious exemption may be granted to an applicant if the dental screening conflicts with a genuine and sincere religious belief.

a. The certificate of dental screening exemption for religious reasons shall attest that the dental screening conflicts with a genuine and sincere religious belief and that the belief is in fact religious and not based merely on philosophical, scientific, moral, personal, or medical opposition to dental screenings.

b. The certificate of dental screening exemption for religious reasons shall be signed and dated by the applicant or, if the applicant is a minor, by the parent or guardian.

c. To be valid, the certificate of dental screening exemption for religious reasons shall be the department certificate or a form approved in writing by the department.

51.3(2) Financial hardship exemption. A financial hardship exemption may be granted to an applicant who is unduly burdened by the cost of a dental screening.

a. The certificate of dental screening exemption for financial hardship reasons shall attest that dental screening would cause a genuine financial burden to the applicant.

b. The certificate of dental screening exemption for financial hardship reasons shall be signed and dated by a dentist, dental hygienist, physician, physician assistant, or nurse.

c. The certificate of dental screening exemption for financial hardship reasons shall include the provider type and the provider’s name, business address, and telephone number.

d. To be valid, the certificate of dental screening exemption for financial hardship reasons shall be the department certificate or a form approved in writing by the department.

51.3(3) A faxed copy, photocopy, or electronic copy of the valid certificate of dental screening exemption is acceptable.

641—51.4(135) Dental screening components.

51.4(1) A dental screening is a visual assessment and is noninvasive and nondiagnostic.

51.4(2) Dental instrumentation is not needed for a dental screening.

51.4(3) A dental screening can identify obvious or suspected oral health conditions that need or that might need examination by a dentist.

51.4(4) The dental screening shall include the following steps:

a. Visual inspection of the soft tissues, including the lips, cheeks, gums, tongue, floor of mouth, and roof of mouth, to assess infection or injury.

b. Visual inspection of all tooth surfaces to assess tooth decay, white spot lesions, or injury.

c. Documentation of the screening and treatment needs according to rule 641—51.8(135).

641—51.5(135) Dental screening providers.

51.5(1) *Elementary school.* A dental screening for elementary school enrollment shall be performed by a licensed dentist, a licensed dental hygienist, a licensed physician, a licensed physician assistant, or a licensed nurse.

51.5(2) *High school.* A dental screening for high school enrollment shall be provided by a licensed dentist or a licensed dental hygienist.

641—51.6(135) Time line for valid dental screening.

51.6(1) *Elementary school.* To be valid, a minimum of one dental screening shall be performed on an applicant no earlier than three years of age but no later than four months after the enrollment date.

51.6(2) *High school.* To be valid, a minimum of one dental screening shall be performed on an applicant no earlier than one year prior to the enrollment date and no later than four months after the enrollment date.

51.6(3) A dental screening may also be deemed valid by the department if the department determines that the applicant has substantially complied with the dental screening requirements.

641—51.7(135) Proof of dental screening. The applicant or, if a minor, the parent or guardian of a child enrolled in elementary school or high school shall submit a valid department certificate of dental screening to the admitting official of the school district or accredited nonpublic elementary school in which the applicant wishes to enroll.

51.7(1) To be valid, the certificate of dental screening shall be the department certificate or a form approved in writing by the department.

a. The Certificate of Dental Screening form is available on the department's website or by calling the department.

b. The certificate of dental screening shall include all information required by rule 641—51.8(135).

c. The certificate of dental screening may also be deemed valid by the department if the department determines that the information on the certificate substantially complies with the dental screening requirements.

51.7(2) A faxed copy, photocopy, or electronic copy of the valid certificate of dental screening is acceptable.

641—51.8(135) Dental screening documentation.

51.8(1) *Student information.* A person authorized to perform a dental screening required by this chapter shall record the following student information or ensure that such information is recorded on the certificate of dental screening provided or approved in writing by the department in cooperation with the department of education:

a. Name (first and last); and

b. Birth date.

51.8(2) Screening information. A person authorized to perform a dental screening required by this chapter shall record the following screening information on the certificate of dental screening provided or approved in writing by the department in cooperation with the department of education:

- a. Date of dental screening;
- b. Treatment needs (no obvious problems, needs dental care, needs urgent dental care);
- c. Provider type;
- d. Provider name and telephone number; and
- e. Provider or recorder signature and credentials.

641—51.9(135) Ensuring dental screening services. Each public and accredited nonpublic school, in collaboration with the department, shall ensure that the parent or guardian of a student enrolled in the school has complied with the dental screening requirement. Parents or guardians of students who do not have a valid certificate of dental screening shall be provided with community dental screening referral resources, including contact information for the I-Smile coordinator, the department, or a dental society.

641—51.10(135) Records. It shall be the duty of the admitting official of an elementary school or a high school to ensure that a valid certificate of dental screening or certificate of dental screening exemption is on file for each child enrolled.

51.10(1) The admitting official shall ensure that all certificates of dental screening are properly completed according to rule 641—51.7(135).

51.10(2) The admitting official shall ensure that all certificates of dental screening exemption are properly completed according to subrules 51.3(1) and 51.3(2).

51.10(3) The admitting official shall keep the certificates of dental screening or certificates of dental screening exemption on file at the school in which the applicant is enrolled and assist the applicant or the applicant's parent or guardian.

51.10(4) The local board of health or its designee, the department of education, and the department or its designee shall have the right to have access to the certificates of dental screening and certificates of dental screening exemption of students enrolled in elementary schools and high schools.

641—51.11(135) Reporting.

51.11(1) It shall be the duty of each local board of health or its designee to audit the certificates of dental screening and certificates of dental screening exemption in the schools within the local board's jurisdiction to determine compliance with Iowa Code section 135.17.

51.11(2) By May 31 annually, each local board of health shall furnish the department with evidence for the preceding school year that each child enrolled in any public or accredited nonpublic school within the local board's jurisdiction met the dental screening requirement.

51.11(3) The evidence shall be in the form of a report that includes:

- a. Name of school,
- b. Enrollments by grade,
- c. The number of valid certificates of dental screening by grade,
- d. The number of valid certificates for religious exemptions by grade, and
- e. The number of valid certificates for financial hardship exemptions by grade.

641—51.12(135) Release of dental screening information.

51.12(1) *Between a dentist, dental hygienist, physician, physician assistant, or nurse, and the elementary school or high school that the child attends.* A dentist, dental hygienist, physician, physician assistant, or nurse shall disclose a student's dental screening information, including the student's name and date of birth; the name of the student's parent or guardian; the month, day and year of the screening; and the screening results and treatment needs to an elementary school or a high school upon written or verbal request from the elementary school or high school. Written or verbal permission from a student or the student's parent or guardian is not required to release this information to an elementary school or a high school.

51.12(2) *Among dentists, dental hygienists, physicians, physician assistants, or nurses.* Dental screening information, including the student's name, date of birth, name of parent or guardian, the month, day and year of the screening, and the screening results and treatment needs shall be provided by one dentist, dental hygienist, physician, physician assistant, or nurse to another health care provider without written or verbal permission from the student or the student's parent or guardian.

641—51.13(135) Referral requirements. Parents or guardians of students who need dental care or need urgent dental care shall be referred to the parent's or guardian's dentist of choice. Students without a dentist or who have difficulty accessing dental care shall be referred to a local I-Smile coordinator or local public health agency for assistance with completion of dental care. This assistance may include locating dentists, scheduling appointments, and identifying payment sources.

641—51.14(135) Provider training. For the purpose of quality assurance and consistency, the department will make training and training materials available for dental screening providers.

These rules are intended to implement Iowa Code section 135.17.

ARC 8528C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to vision screening and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 52, "Vision Screening," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 135.39D.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.39D.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. The intended benefit of this chapter is to improve the eye health and vision of Iowa's children. The child vision screening program establishes a comprehensive vision evaluation effort to facilitate early detection and referral for treatment of visual impairment in order to reduce vision impairment in children.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 14, 2025 2:30 to 3:30 p.m.	Via Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN
January 17, 2025 1:30 to 2:30 p.m.	Via Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 52 and adopt the following **new** chapter in lieu thereof:

CHAPTER 52
VISION SCREENING

641—52.1(135) Definitions.

“Advanced registered nurse practitioner” or “ARNP” means the same as defined in rule 655—7.1(17A,124,147,152).

“Autorefractor” means a method of vision screening involving skiascopy methods or wave-front technology to evaluate the refractive error of each eye. Depending on the autorefractor being used, this method allows for immediate results interpreted by the operator or the instrument as a pass or fail.

“Community-based organization” means a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community that include utilizing approved age-appropriate, acceptable child vision screening tests approved by the department.

“Comprehensive eye examination” means a clinical diagnostic assessment performed by an optometrist or ophthalmologist to assess a person’s level of vision and to detect any abnormality or diseases.

“Elementary school” means an Iowa public or accredited nonpublic school that a kindergarten or third grade student would attend.

“Iowa KidSight” means a joint project of the lions clubs of Iowa and the university of Iowa, department of ophthalmology and visual sciences, dedicated to enhancing the early detection and treatment of vision impairments in Iowa’s young children (target population six months of age through kindergarten age) through screening and public education.

“IRIS” means the immunization registry information system as established in 641—Chapter 7.

“Online vision screening” means a vision screening test administered from the Internet to a child to assess vision and includes vision test results and recommendations.

“Ophthalmologist” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code chapter 148 and board-certified in ophthalmology as a specialist in medical and surgical eye problems.

“Optometrist” means a person licensed to practice optometry pursuant to Iowa Code chapter 154.

“Photoscreening” means a method of vision screening employing an automated technique that uses the red reflex of the eye to screen for eye problems and produces immediate readable results and a timely report of the results thereafter.

“Physician” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code chapter 148.

“Physician assistant” means a person licensed to practice as a physician assistant pursuant to Iowa Code chapter 148C.

“Potential vision impairment” means that a child’s vision appears to be compromised and there is reason for the child to be seen by an ophthalmologist or optometrist.

“Student vision card” means a card distributed by the Iowa optometric association to all schools in Iowa pursuant to Iowa Code section 280.7A. The student vision card recommends children receive a complete eye health examination.

“Vision screening” means an eye testing program that is age- and developmentally appropriate and that assesses visual acuity or other risk factors contributing to refractive errors and other conditions.

641—52.2(135) Persons included and persons excluded.

52.2(1) The child vision screening requirements specified in this chapter apply to all persons seeking first-time enrollment in kindergarten and third grade in a public or accredited nonpublic elementary school in Iowa.

52.2(2) Persons shall be included or excluded as established in Iowa Code section 135.39D.

641—52.3(135) Child vision screening components.

52.3(1) The requirement for a child vision screening may be satisfied pursuant to Iowa Code section 135.39D.

52.3(2) All vision screening methods, including emerging vision screening technologies, shall be age-appropriate and will be approved by the department. A list of acceptable child vision screening tests will be reviewed and updated annually by the department and will be listed on the department’s website.

641—52.4(135) Time line for valid vision screening.

52.4(1) *Kindergarten.* To be valid, a minimum of one child vision screening shall be performed on a child no earlier than one year prior to the date of the child’s enrollment in kindergarten and no later than six months after the date of the child’s enrollment in kindergarten.

52.4(2) *Grade three.* To be valid, a minimum of one child vision screening shall be performed on a child no earlier than one year prior to the date of the child's enrollment in the third grade and no later than six months after the date of the child's enrollment in the third grade.

52.4(3) *Substantial compliance.* A child vision screening may also be deemed valid by the department if the department determines the child has substantially complied with the child vision screening requirements.

641—52.5(135) Proof of child vision screening.

52.5(1) The parent or guardian of a child enrolled in kindergarten or third grade shall ensure that evidence of a child vision screening is submitted to the school district or accredited nonpublic elementary school in which the child is enrolled either electronically through IRIS pursuant to subrule 52.5(2) or in hard copy or electronic form pursuant to subrule 52.5(3).

52.5(2) If the child's vision screening results were electronically submitted to IRIS, the parent or guardian may notify the school district or accredited nonpublic elementary school of such submission to satisfy the requirement for evidence of a child vision screening.

52.5(3) If evidence of the child vision screening is not electronically submitted to IRIS, the parent or guardian shall provide evidence of the child vision screening in hard copy or electronic form directly to the school. Hard copy or electronic evidence of the vision screening shall include the child's first name, last name, date of birth and ZIP code; evidence of the vision screening including the date of screening, left eye results, right eye results, vision screening result of "pass" or "fail," and designation of "yes" or "no" for referral made; and the name of the provider who performed the vision screening.

52.5(4) Submission of a faxed copy, photocopy, or electronic copy of the child vision screening results is acceptable.

52.5(5) If a parent or guardian chooses for a child to receive a comprehensive eye examination completed by an ophthalmologist or optometrist in lieu of a vision screening, the parent or guardian may submit a completed student vision card to satisfy the requirement of this rule.

641—52.6(135) Child vision screening reporting.

52.6(1) A person authorized to perform a child vision screening required by this chapter shall report results of the child vision screening to the department.

a. An ophthalmologist or optometrist shall report the results in written form, either electronically or by hard copy, to the parent or guardian to be forwarded to the department via the school or shall report the results via IRIS if available.

b. A pediatrician's or family practice physician's office, a free clinic, a child care center, a local public health department, a public or accredited nonpublic school, or a community-based organization or an ARNP or physician assistant shall report the results in written form, either electronically or by hard copy, to the parent or guardian to be forwarded to the department via the school or shall report the results via IRIS if available.

c. Results from an online vision screening administered from the Internet shall be generated in an electronic or hard-copy report to the parent or guardian to be forwarded to the department via the school or the results shall be reported via IRIS if available.

d. The results of photoscreening vision screening, including those performed by Iowa KidSight, shall be reported to the parent or guardian in written form, either electronically or by hard copy, to be forwarded to the department via the school or shall be reported via IRIS if available.

52.6(2) The department will collect and maintain results of the vision screenings submitted electronically, via hard copy or through IRIS.

641—52.7(135) School requirements.

52.7(1) Each public and accredited nonpublic elementary school, in collaboration with the department, shall provide the parents or guardians of students enrolled in the school with vision screening referral resources prior to enrollment or during the enrollment period.

52.7(2) Each public and accredited nonpublic elementary school shall provide to parents or guardians of students for whom evidence of a child vision screening is not submitted community eye

health referral resources, including but not limited to contact information for the local public health department, maternal and child health agency, Iowa KidSight, the department, or an optometric or ophthalmology society.

52.7(3) Each public and accredited nonpublic elementary school shall arrange for the following to be forwarded to the department:

- a.* Child vision screening results or comprehensive eye examination results provided by parents or guardians;
- b.* A list of students whose parents or guardians indicate that the students' results were reported through IRIS; and
- c.* Any other evidence of vision screening or comprehensive eye examination provided to the school.

641—52.8(135) Iowa's child vision screening database module and follow-up. The department may develop and maintain a statewide child vision screening database module in IRIS to collect and maintain child vision screening results, to ensure students receive the required vision screening, and to monitor eye health.

52.8(1) The database module will consist of vision screening information, including identifying and demographic data.

52.8(2) Database module reporting will comply with rule 641—52.6(135).

52.8(3) Unauthorized uses of database module. The database module information shall not be used to:

- a.* Market services to students or nonstudents;
- b.* Assist in bill collection services; or
- c.* Locate or identify students or nonstudents for any purpose other than those expressly provided in this rule.

52.8(4) Confidentiality of database module information. Child vision screening information, including identifying and demographic data maintained in the database module, is confidential and may not be disclosed except under the following limited circumstances:

- a.* The department may release information from the database module to the following:
 - (1) The person who received the child vision screening or the parent or guardian of the person who received the child vision screening;
 - (2) Users of the database module that complete an agreement with the department that specifies the conditions under which the database module can be accessed and that have been issued an organization code and username by the department;
 - (3) Persons or entities requesting child vision screening data in an aggregate form that does not identify an individual either directly or indirectly;
 - (4) Agencies that complete an agreement with the department which specifies conditions for access to database module information and how that information will be used;
 - (5) A representative of a state or federal agency, or an entity bound by that state or federal agency, to the extent the information is necessary to perform a legally authorized function of the agency or the department. The state or federal agency is subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa; or
 - (6) Licensed health care providers, agencies, and other persons involved with vision screenings, eye examinations, follow-up services, and intervention services as necessary to administer this chapter.
- b.* Approved database module users shall not release child vision screening data except to the person who received the child vision screening; the parent or guardian of the person who received the child vision screening; health records staff of schools; medical, optometry, ophthalmology or health care providers providing continuity of care; and other approved users of the database module.

641—52.9(135) Referral requirements.

52.9(1) If a vision screening identifies a potential vision impairment in a child, the person who performed the vision screening shall, if the person is not an ophthalmologist or optometrist, refer the child to an ophthalmologist or optometrist for a comprehensive eye examination.

52.9(2) Persons performing vision screenings shall contact parents or guardians of children identified as having potential vision impairment based on the results of a vision screening required pursuant to this chapter or a comprehensive eye examination required pursuant to subrule 52.9(1) in order to provide information on obtaining necessary vision correction.

These rules are intended to implement Iowa Code section 135.39D.

ARC 8499C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to the advisory council on brain injuries
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 55, “Advisory Council on Brain Injuries,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 2024 Iowa Acts, Senate File 2385.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded as part of the Red Tape Review process laid out by Executive Order 10. This chapter is being rescinded to comply with 2024 Iowa Acts, Senate File 2385, which eliminates the Brain Injury Advisory Council.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 55**.

ARC 8498C

PUBLIC HEALTH DEPARTMENT[641]**Notice of Intended Action****Proposing rulemaking related to emergency information system on pesticides
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 71, "Emergency Information System on Pesticides for Use by Health Care Providers During Medical Emergencies," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 139A.21.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 139A.21.

Purpose and Summary

Chapter 71 was reviewed and is proposed to be rescinded as part of the Red Tape Review process established by 2023 Executive Order 10. These rules were intended to establish an emergency information system for pesticides that Iowa health care providers are able to access 24/7 in order to gain access to emergency treatment information for the emergency care of a real-time human exposure to a pesticide.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 71**.

ARC 8518C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

**Proposing rulemaking related to the childhood lead poisoning prevention program
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 72, "Childhood Lead Poisoning Prevention Program," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 135.102.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 135.100 through 135.105 and 135.105B.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded and adopted anew as part of the Red Tape Review process laid out by Executive Order 10. The purpose of this chapter is to implement the grant program pursuant to Iowa Code section 135.103 and to set forth the standards and program requirements of the grant program pursuant to Iowa Code section 135.103.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 15, 2025 2:30 to 3:30 p.m.	Via Microsoft Teams Meeting ID: 225 091 018 909 Passcode: hVKapN
January 17, 2025 1:30 to 2:30 p.m.	Via Microsoft Teams Meeting ID: 260 724 672 894 Passcode: bWFD4e

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 72 and adopt the following **new** chapter in lieu thereof:

CHAPTER 72
CHILDHOOD LEAD POISONING
PREVENTION PROGRAM

641—72.1(135) Definitions.

“Approved program” means a program that meets the requirements of Iowa Code section 135.104 and has been approved by the department.

“Local board” means a county, district, or city board of health.

641—72.2(135) Approved programs.

72.2(1) A local board of health representing a geographic area with a population of at least 15,000 is eligible to apply for status as an approved program pursuant to Iowa Code section 135.104, which sets forth the eligibility requirements contained in the application.

72.2(2) A local board wishing to apply for status as an approved program shall make application to the department in the format available from the department. All materials submitted as part of the application for status as an approved program are public records.

These rules are intended to implement Iowa Code sections 135.100 through 135.105.

ARC 8539C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to special supplemental nutrition program for WIC and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 73, “Special Supplemental Nutrition Program for Women, Infants, and Children (WIC),” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 234.6(1)“f.”

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514; 42 U.S.C. §1786; and 7 CFR 246.

Purpose and Summary

WIC must follow United States Department of Agriculture (USDA) regulations. States do have some flexibility in how some of the federal regulations are implemented; therefore, the Iowa Administrative Code can provide more Iowa-specific practices, but the USDA federal regulations would take precedence.

Pursuant to 2023 Iowa Acts, Senate File 514, Chapter 73 is proposed to be rescinded and moved from the legacy Public Health Department[641] agency to a new chapter within the Human Services Department[441] agency.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 2025. Comments should be directed to:

Victoria Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 16, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 297 224 919 887 Passcode: TpBUop
January 21, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 255 649 705 881 Passcode: BsEBSV

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 73**.

ARC 8520C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

**Proposing rulemaking related to family planning services
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 74, "Family Planning Services," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.41B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 217.41B.

Purpose and Summary

The intended benefit of this chapter was to ensure that there was a successful process outlined on how to fund eligible applicants for the Department's Title X Family Planning Program, including the grant application process. However, rulemaking authority for this chapter was limited in scope. The chapter is proposed to be rescinded as part of the Red Tape Review process outlined in Executive Order 10. The portions of the chapter where rulemaking is mandated by the Iowa Code will be moved into a new combined chapter, 641—Chapter 75. The remaining portions will continue to exist through the request for proposal process.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Via Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Via Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 74**.

ARC 8530C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

**Proposing rulemaking related to family planning services funding
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 75, "Family Planning Services Funding Prioritization, Restrictions and Reporting," and to adopt a new Chapter 75, "Distribution of Federal Funds Restrictions—Provider Identification and Attestation," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 2019 Iowa Acts, chapter 85, section 98, and 2023 Iowa Acts, chapter 19, section 346.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2019 Iowa Acts, chapter 85, section 98; 2023 Iowa Acts, chapter 19, section 346; and Title X of the Public Health Service Act, 42 U.S.C. §300 et seq.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. The purpose of this rulemaking is to require that, as a condition of eligibility as an applicant, grantee, grantee contractor, or grantee subcontractor for certain federal funds, each distinct location of a nonprofit health care delivery system will be assigned a distinct identification number and complete an attestation that abortions are not performed at the distinct location.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 15, 2025 10 to 11 a.m.	Via Microsoft Teams Meeting ID: 240 123 537 880 Passcode: 4MT8Ac
January 17, 2025 2:30 to 3:30 p.m.	Via Microsoft Teams Meeting ID: 273 055 800 019 Passcode: FggQZn

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 75 and adopt the following **new** chapter in lieu thereof:

CHAPTER 75
DISTRIBUTION OF FEDERAL FUNDS RESTRICTIONS—PROVIDER
IDENTIFICATION AND ATTESTATION

641—75.1(88GA,ch85,90GA,ch19) Definitions.

“*Administer*” means to implement programs through contracts entered into by the department and selected private, governmental, and nonprofit organizations to provide programming directly to participants. “Administer” does not mean the evaluation of programs or the management of federal

performance measures data collection. “Administer” also does not mean providing training and technical assistance.

“CAPP” means the community adolescent pregnancy prevention program using federal temporary assistance for needy families block grant funds appropriated to the department.

“Family planning” means the promotion of reproductive and family health through education, prevention of pregnancy, planning for pregnancy, and reproductive health services.

“FPP” means the state-funded family planning program that is a limited insurance coverage for men and women who are 12 to 54 years of age.

“Nonprofit health care delivery system” means an Iowa nonprofit corporation that controls, directly or indirectly, a regional health care network consisting of hospital facilities and various ambulatory and clinic locations that provide a range of primary, secondary, and tertiary inpatient, outpatient, and physician services.

“PREP” means the personal responsibility education program as specified in 42 U.S.C. Section 713 (as amended to January 1, 2024).

“SRAE” means the Sexual Risk Avoidance Education Grant Program authorized pursuant to Section 510 of Title V of the federal Social Security Act, 42 U.S.C. Section 710) as amended by the Consolidated Appropriations Act of 2022 (Public Law 117-103) and extended by division B, Title I, section 142, of the Further Additional Continuing Appropriations and Other Extensions Act, 2024 (Public Law 118-35), and the Further Consolidated Appropriations Act, 2024.

“Title X” refers to the federal requirements contained in 42 CFR Subpart A, Part 59 (as amended to August 1, 2024), and the Program Guidelines for Project Grants for Family Planning Services.

641—75.2(88GA,ch85,90GA,ch19) Identification numbers. The department will assign a unique identification number to each distinct location of a nonprofit health care delivery system receiving funds from the department to administer programs under:

- 75.2(1)** The Title X family planning program;
- 75.2(2)** PREP;
- 75.2(3)** SRAE;
- 75.2(4)** FPP; and
- 75.2(5)** CAPP grants.

641—75.3(88GA,ch85,90GA,ch19) Attestation. Each applicant, grantee, grantee contractor, or grantee subcontractor, and each distinct location of a nonprofit health care delivery system receiving funds from the department as enumerated in rule 641—75.2(88GA,ch85,90GA,ch19) shall provide to the department, on forms prescribed by the department, a signed attestation that abortions are not performed at the distinct location.

These rules are intended to implement 2019 Iowa Acts, chapter 85, sections 98 through 100, and 2023 Iowa Acts, chapter 19, section 346.

ARC 8471C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to maternal and child health program and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 76, “Maternal and Child Health Program,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.11.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. This proposed chapter outlines the eligibility criteria and application procedures for maternal and child health programs.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliance@hhs.iowa.gov

Public Hearing

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

January 15, 2025 10 to 11 a.m.	Microsoft Teams Meeting ID: 240 123 537 880 Passcode: 4MT8Ac
January 17, 2025 2:30 to 3:30 p.m.	Microsoft Teams Meeting ID: 273 055 800 019 Passcode: FggQQn

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 76 and adopt the following new chapter in lieu thereof:

CHAPTER 76
MATERNAL AND CHILD HEALTH PROGRAM

641—76.1(135) Definitions.

“Care/service coordination” or *“care coordination”* means a comprehensive, family-centered approach that proactively engages and links clients and families to needed health care services, including medical, dental, emotional, behavioral, and health education services. Care coordination encompasses a specific set of activities that promote a client's potential for optimal health and facilitate quality outcomes. By working with the client, family, and other involved disciplines, a care coordinator can promote seamless access and a holistic approach to service provision. Care coordination incorporates the following:

1. Meaningful assessment of needs and concerns.
2. Shared development of care plans.
3. Mobilization of agency and community resources.
4. Continued monitoring and follow-up.
5. Clear and transparent communication.
6. Complete documentation.

“Children and youth with special health care needs” or *“CYSHCN”* means children and youth with chronic physical, developmental, behavioral, or emotional conditions that require health and related services of a type or amount beyond that required by children and youth generally.

“CHSC” means child health specialty clinics, a statewide program for children and youth with special health care needs authorized under Title V of the Social Security Act as amended to August 1, 2024.

“Client” means an individual who receives MCH services through a contract agency.

“Contract agency” means a private nonprofit or public agency that has a contract with the department to provide MCH services and receives funds from the department for that purpose.

“DHHS” means the United States Department of Health and Human Services.

“Family,” for the purpose of establishing eligibility, means a group of two or more persons related by birth, marriage or adoption or residing together and functioning as one socioeconomic unit. For the purpose of these rules, a pregnant woman is considered as two individuals when calculating the number of individuals in the family. If a pregnant woman is expecting multiple births, the family size is thereby increased by the number expected in the multiple birth.

“Family planning” means the promotion of reproductive and family health by the prevention of and planning for pregnancy, and reproductive health education.

“Gap filling” means direct health care services supported by Title V staff or resources that are not otherwise accessible in the community.

“Hawki” means healthy and well kids in Iowa and is the child health insurance program in Iowa as authorized in Title XXI of the Social Security Act as amended to August 1, 2024.

“Health care services” means services provided through MCH contract agencies.

“Health professional” means an individual who possesses specialized knowledge in a health or social science field or is licensed to provide health care.

“Medicaid” means the Medicaid program authorized by Title XIX of the Social Security Act, as amended to August 1, 2024, and funded through the Iowa department of health and human services from the DHHS.

“Presumptive eligibility determination” means temporary Medicaid eligibility that pays for medical services while a formal Medicaid decision is being made by the department. Presumptive eligibility is available for children, youth, and pregnant women.

“Title V” means Title V of the Social Security Act and the federal requirements contained in the Omnibus Reconciliation Act of 1989 (Public Law 101-239, as amended to August 1, 2024) that address the MCH and CYSHCN programs.

“Title X” means the program authorized in the federal regulations found in 42 CFR Subpart A, Part 59, published in the Federal Register on June 3, 1980, as amended to August 1, 2024, and the Program Guidelines for Project Grants for Family Planning Services as amended to August 1, 2024.

“Title XIX” means the Medicaid program authorized in the Social Security Act, as amended to August 1, 2024, and funded through the department from the DHHS.

“Title XXI” means the child health insurance program authorized in the Social Security Act, as amended to August 1, 2024, and implemented in Iowa as the hawki program as administered by the department.

“WIC” means the Special Supplemental Nutrition Program for Women, Infants, and Children, funded through the department from the United States Department of Agriculture.

641—76.2(135) Client eligibility criteria. The certification process to determine eligibility for direct health care under the program shall include the following requirements:

76.2(1) Age.

- a. Maternal health program—no age restrictions.
- b. Child health program—birth through 21 years of age.
- c. CYSHCN program—birth through 21 years of age.

76.2(2) Income.

a. Income guidelines will be the same as those established for the state’s Title XXI program. Guidelines are published annually by DHHS. Department income guidelines will be adjusted following any change in DHHS guidelines.

b. Income information will be provided by the individual.

c. Proof of Title XIX, Title XXI (hawki), or WIC eligibility will automatically serve in lieu of an application.

d. All income of family members as defined by DHHS poverty guidelines will be used in calculating the individual’s gross income for purposes of determining initial and continued eligibility.

e. Income will be calculated as follows:

(1) Annual income will be estimated based on the individual’s income for the past three months unless the individual’s income will be changing or has changed, or

(2) In the case of self-employed families the past year’s income tax return (adjusted gross income) will be used in estimating annual income unless a change has occurred,

(3) Terminated income will not be considered.

f. Individuals will be screened for eligibility for Title XIX, Title XXI (hawki), and WIC. If an individual’s income falls within the eligibility guidelines for Title XIX, Title XXI (hawki), or WIC, the individual may be referred to the department or other enrollment source to apply for coverage. Children, youth and pregnant women will be considered for Title XIX presumptive eligibility.

g. An individual whose income is above the poverty level established by Title XXI and below 302 percent of the federal poverty guidelines will qualify for services on a sliding fee scale, as determined by the local agency’s cost for the service. The department provides annual guidelines based on poverty levels established annually by DHHS. An individual whose income is at or above 302 percent will qualify for services at full fee.

h. Eligibility determinations must be performed at least once annually. Should the individual's circumstances change in a manner that affects third-party coverage or Title XIX/Title XXI eligibility, eligibility determinations will be completed more frequently.

76.2(3) *Residency.* Individuals must be currently residing in Iowa.

76.2(4) *Pregnancy.* An individual applying for the prenatal program shall have verification of pregnancy by an independent health provider, the maternal health contract agency, a family planning (Title X) agency, or a positive home pregnancy test.

76.2(5) *Children and youth with special health care needs.* An individual applying for CHSC services will be determined to have a special health care need as defined by the federal MCHB. Care/service coordination, family support or other non-clinic services are provided at no charge to the family. Clinic services are provided without charge to families with adjusted gross incomes below 185 percent of the federal poverty guidelines. Families above this threshold are responsible for payment according to a sliding fee scale based on tax exemptions, adjusted gross income, and extenuating circumstances.

641—76.3(135) Client application procedures for MCH services. A person or the parent or guardian of a minor desiring direct health services other than those provided to children and youth with special health care needs may apply to a contract agency using a manner prescribed by the department. Individuals requesting presumptive eligibility must complete a form prescribed by the department, or the alternate form authorized by the medical assistance advisory council.

These rules are intended to implement Iowa Code section 135.11.

ARC 8527C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to education and grant programs and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 78, "Personal Responsibility Education Program and Title V State Sexual Risk Avoidance Education Grant Program Funding and Restrictions," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 2019 Iowa Acts, House File 766, section 99.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2019 Iowa Acts, House File 766, section 99.

Purpose and Summary

The purpose of this chapter was to set forth guidelines and limitations for the use of funds from the Personal Responsibility Education Program (PREP) and the Title V State Sexual Risk Avoidance Education (SRAE) Grant Program. The chapter details rules that prohibit the Department from contracting for PREP and SRAE programs with an entity that facilitates abortions. However, rulemaking authority for this chapter was limited in scope. The chapter is being rescinded as part of the Red Tape Review process outlined in Executive Order 10. The portions of the chapter where rulemaking is mandated by the Iowa Code will be moved into a new combined chapter, 641—Chapter 75.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Via Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Via Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 78**.

ARC 8502C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to healthy families Iowa
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 87, “Healthy Families Iowa (HFI),” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 135.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.106.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded as part of the Red Tape Review process laid out by Executive Order 10. Currently, this chapter describes applicant and participant eligibility, program requirements, contractor assurances, and the applicant and participant appeals process for Healthy Families Iowa. Authority is not explicit for rulemaking; however, the Department has established criteria, program requirements and a request for proposal process for the program. For these reasons, chapter rescission is appropriate.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street

Des Moines, Iowa 50319
Email: compliance@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 87**.

ARC 8521C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to parental notification of intent to terminate a pregnancy through abortion and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 89, "Decision-Making Assistance Program and Parental Notification of Intent to Terminate a Pregnancy Through Abortion," and to adopt a new Chapter 89, "Parental Notification of Intent to Terminate a Pregnancy Through Abortion," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 135L.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 135L.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. These proposed rules provide the procedures and documentation necessary for notification of a parent or grandparent of a pregnant minor prior to the termination of the pregnancy through abortion.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 15, 2025 10 to 11 a.m.	Via Microsoft Teams Meeting ID: 240 123 537 880 Passcode: 4MT8Ac
January 17, 2025 2:30 to 3:30 p.m.	Via Microsoft Teams Meeting ID: 273 055 800 019 Passcode: FggQQzn

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 89 and adopt the following **new** chapter in lieu thereof:

CHAPTER 89
PARENTAL NOTIFICATION OF INTENT TO
TERMINATE A PREGNANCY THROUGH ABORTION

641—89.1(135L) Definitions.

“Abortion” means an abortion as defined in Iowa Code chapter 146C.

“Court” means juvenile court.

“Grandparent” means the same as defined in Iowa Code chapter 135L.

“Licensed physician” means a physician as licensed by the Iowa board of medicine.

“Medical emergency” means the same as defined in Iowa Code chapter 135L.

“Minor” means the same as defined in Iowa Code chapter 135L.

“Parent” means the same as defined in Iowa Code chapter 135L.

641—89.2(135L) Notification of parent prior to the performance of abortion on a pregnant minor.

89.2(1) Notification is made to the parent pursuant to Iowa Code section 135L.3, unless a judicial waiver is granted as provided in Iowa Code section 135L.3, or unless any of the conditions of rule 641—89.3(135L) have been met.

a. The notification form shall be in duplicate and may be provided by the department and include, at a minimum, the following:

- (1) The name of the minor.
- (2) Notification of the intent to terminate the pregnancy.
- (3) The name, address, and relationship of the person to be notified.

b. The licensed physician who performs the abortion will keep the original notification form as a part of the minor’s medical record relating to the termination of the pregnancy.

c. A copy of the completed notification form is provided to the pregnant minor.

89.2(2) Reserved.

641—89.3(135L) Notification procedures in the event of an exception.

89.3(1) The licensed physician who performs the abortion will keep all written documentation as a part of the minor’s medical record relating to the termination of the pregnancy.

89.3(2) Upon receipt of the written statement from the pregnant minor, the licensed physician who performs the abortion provides notification to a grandparent of the pregnant minor, specified by the pregnant minor, in the manner in which the notification of a parent was prescribed in rule 641—89.2(135L).

a. The notification form shall be in duplicate and may be provided by the department, and include, at a minimum, the following:

- (1) The name of the minor.
- (2) Notification of the intent to terminate the pregnancy.
- (3) The name, address, and relationship of the person to be notified.
- (4) A declaration that informs the grandparent of the pregnant minor that the grandparent of the pregnant minor may be subject to civil action if the grandparent accepts notification.

(5) A provision that the grandparent of the pregnant minor may refuse acceptance of notification and a provision that the grandparent immediately contact the licensed physician if refusing acceptance of the notification.

b. A copy of the completed notification form is to be provided to the pregnant minor.

These rules are intended to implement Iowa Code chapter 135L.

ARC 8500C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to the preparedness advisory committee
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 114, “Preparedness Advisory Committee,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded as part of the Red Tape Review process laid out by Executive Order 10. The committee described in this chapter is required to receive federal grant funds in the event of a public health disaster. The committee’s purpose, organization, and procedures are more appropriately outlined under a formal charter document. Therefore, the Department proposes to rescind the entire chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliance@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 114.**

ARC 8512C

PUBLIC HEALTH DEPARTMENT[641]**Notice of Intended Action****Proposing rulemaking related to trauma care facility categorization and verification
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 134, "Trauma Care Facility Categorization and Verification," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 147A.27.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 147A.23.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded and adopted new as part of the Red Tape Review process laid out by Executive Order 10. This proposed rulemaking helps ensure all Iowa hospitals are verified to be equipped with the appropriate resources to provide trauma services and optimal care for injured patients. The chapter adopts by reference published national guidelines with required criteria/standards for hospitals to be verified trauma centers. The chapter also outlines the verification process, timeline, and disciplinary processes.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 15, 2025 1 to 2 p.m.	Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 134 and adopt the following **new** chapter in lieu thereof:

CHAPTER 134
TRAUMA CARE FACILITY CATEGORIZATION AND VERIFICATION

641—134.1(147A) Definitions. For the purposes of these rules, the following definitions apply:

“*ACS-COT*” means the American College of Surgeons Committee on Trauma.

“*Categorization*” means the same as defined in Iowa Code section 147A.21.

“*Certificate of verification*” means a document awarded by the department that identifies a hospital or emergency care facility’s level and term of verification as a trauma care facility.

“*Criteria deficiency*” or “*deficiency*” means a failure to meet criteria requirements as outlined in subrule 134.2(3).

“*Emergency care facility*” means the same as defined in Iowa Code section 147A.21.

“*Emergency medical care provider*” means emergency medical care provider as defined in Iowa Code section 147A.1.

“*Final report*” means the verification report issued by the department following a verification review conducted by trauma survey team members and department staff.

“*Governing body*” means a group of individuals responsible for the governance of a hospital, including but not limited to a board of directors or board of trustees.

“*Hospital*” means any hospital licensed under Iowa Code chapter 135B.

“*On-site verification survey*” means an on-site survey conducted by the department or survey team members to assess a hospital or emergency care facility’s ability to meet the level of categorization requested.

“*Persistently occurring deficiencies*” means deficiencies identified in two sequential verification reviews.

“*Trauma*” means the same as defined in Iowa Code section 147A.21.

“*Trauma care facility*” means the same as defined in Iowa Code section 147A.21.

“*Trauma survey team*” means a group of health care providers contracted by the department to assist in verifying trauma care facilities’ compliance with trauma criteria adopted in subrule 134.2(3).

“*Type I criteria*” or “*type I criteria deficiency*” indicates criteria requirements that may significantly impact a trauma care facility’s ability to provide optimal care for trauma patients.

“*Type II criteria*” or “*type III criteria deficiency*” indicates criteria that are required but have a less critical impact on the trauma care facility’s ability to provide optimal care for trauma patients than type I criteria.

“*Verification*” means the same as defined in Iowa Code section 147A.21.

641—134.2(147A) Trauma care facility categorization and verification. Categorization and verification of trauma care facilities will be made by the department in accordance with Iowa Code section 147A.23.

134.2(1) Categorization applications shall be submitted by all hospitals. New hospitals and emergency care facilities shall submit a categorization application no later than 90 days after licensing by the department of inspections, appeals, and licensing.

134.2(2) Categorization levels for trauma care facilities shall be identified as:

- a. Level I.
- b. Level II.
- c. Level III.
- d. Level IV.

134.2(3) Adoption by reference. Criteria specific to level I, II, and III trauma care facilities identified in the “Resources for Optimal Care of the Injured Patient” 2022 Standards published by the American College of Surgeons (ACS) is incorporated and adopted by reference for level I, II, and III hospital and emergency care facility categorization criteria. Criteria specific to level IV trauma care facilities identified in the “Resources for Optimal Care of the Injured Patient 2014” published by the

ACS is incorporated and adopted by reference for level IV hospital and emergency care categorization criteria. For any differences that may occur between the adopted references and these administrative rules, the administrative rules shall prevail.

134.2(4) Categorization shall not be construed to imply any guarantee on the part of the department as to the level of trauma care services available at a trauma care facility.

134.2(5) A verified trauma care facility may apply to the department for a change in level of categorization through submission of a self-assessment categorization application.

134.2(6) Verification of a trauma care facility will be determined by the department upon successful completion of the categorization application and completion of a verification survey. All categorized hospitals and emergency care facilities shall be verified.

a. Level I and II trauma care facilities shall be verified by the ACS-COT.

b. Trauma care facilities verified by the ACS-COT will be accepted by the department as equivalent for categorization and verification as a trauma care facility in Iowa provided that all policy, reporting, and administrative rules have been met. The department may issue a certification of verification provided that the trauma care facility has been verified by the ACS-COT. The facility shall provide the department documentation including but not limited to a current copy of the ACS-COT verification.

c. A level I or II trauma care facility that fails to attain ACS-COT verification shall submit an application to the department to be verified as a level III or IV trauma care facility to ensure compliance with Iowa Code section 147A.23(2) “a.”

d. Level III and IV trauma care facilities will be verified by the department in consultation with the trauma survey team.

134.2(7) The department will conduct a verification survey for categorized hospitals or emergency care facilities.

a. Type I and II criteria deficiencies identified during the verification process shall be resolved in accordance with the trauma care facility’s final report. Failure to rectify deficiencies in accordance with the trauma care facility’s final report may result in disciplinary action.

b. The department may conduct electronic review or on-site verification that criteria deficiencies have been resolved as outlined in final reports or disciplinary actions.

c. The department will notify the applicant in writing as to the approval or denial of verification as a trauma care facility within 90 days after the completion of a verification survey.

d. Verification cannot be construed to imply any guarantee on the part of the department as to the level of trauma care services available at a hospital or emergency care facility.

e. Trauma care facility verification is valid for a period of three years from the effective date unless otherwise specified on the certificate of verification or unless sooner suspended or revoked.

f. Trauma care facilities shall be fully operational at their verified level upon the effective date specified on the certificate of verification.

g. Trauma care facilities that are unable to maintain their categorization or verification, or both, must notify the department within 48 hours.

h. The director, pursuant to 441—Chapter 7, may grant a waiver from the requirements of rules adopted under this chapter for any trauma care facility.

i. Proceedings, records, and reports developed pursuant to this chapter constitute peer review records under Iowa Code section 147.135 and are not subject to discovery by subpoena or admissible as evidence. All information and documents received from a hospital, emergency care facility, or trauma care facility under Iowa Code chapter 147A are confidential pursuant to Iowa Code section 272C.6(4).

641—134.3(147A) Complaints, investigations and appeals.

134.3(1) The department may deny verification as a trauma care facility or may give a citation and warning, place on probation, suspend, or revoke existing verification if the department finds reason to believe that the facility has not been operating or will not be operated in compliance with Iowa Code section 147A.23 and these administrative rules or that there is insufficient assurance of adequate

protection for the public. The denial, citation and warning, period of probation, suspension, or revocation shall be effected and may be appealed in accordance with the requirements of 441—Chapter 7.

134.3(2) All complaints regarding the operation of a trauma care facility, or those purporting to be or operating as the same, shall be reported to the department.

134.3(3) Complaints and the investigative process shall be treated as confidential to the extent that they are protected by Iowa Code sections 22.7 and 147A.24 and chapter 272C.

134.3(4) Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

134.3(5) Notice of denial, citation and warning, probation, suspension or revocation shall be effected in accordance with the requirements of Iowa Code section 17A.12. Notice to the alleged violator of denial, citation and warning, probation, suspension, or revocation shall be served by certified mail, return receipt requested, or by personal service.

134.3(6) Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, news media or employer.

These rules are intended to implement Iowa Code section 147A.23.

ARC 8526C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to trauma triage and transfer protocols and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 135, "Trauma Triage and Transfer Protocols," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 147A.27.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 147A.23.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded and adopted anew as part of the Red Tape Review process laid out by Executive Order 10. The purpose of the proposed chapter is to provide written directives that support decision making by emergency medical services (EMS) clinicians in transport destination determinations for injured patients, which will improve survival after injury. The chapter will ensure that seriously injured patients are transported to the most clinically appropriate higher-level trauma centers, and patients with minor to moderate injuries can be cared for in lower-level trauma centers.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 15, 2025 1 to 2 p.m.	Via Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 p.m.	Via Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 135 and adopt the following **new** chapter in lieu thereof:

CHAPTER 135
TRAUMA TRIAGE AND TRANSFER PROTOCOLS

641—135.1(147A) Definitions. For the purposes of these rules, the following definitions apply:

“*Out-of-Hospital Trauma Triage Destination Decision Protocols*” means written directives to assist in trauma and triage decision-making, established and approved by the department, to be followed by the service program.

“*Service program*” or “*service*” means the same as defined in Iowa Code section 147A.1.

“*Transfer*” means the process of a patient being transferred from the scene of an injury to a trauma care facility or from one trauma care facility to another.

“*Trauma care facility*” means the same as defined in Iowa Code section 147A.21.

“*Trauma triage and transfer*” means to determine the trauma care facility destination.

641—135.2(147A) Trauma triage and transfer protocols. Trauma triage and transfer protocols approved by the department assist personnel from each service program and trauma care facility. These protocols do not preclude service programs or trauma care facilities from making emergency revisions of the approved triage and transfer protocols when an incident overburdens medical care resources, causing an unnecessary delay in patient care.

135.2(1) Adoption by reference. The 2021 National Guideline for the Field Triage of Injured Patients, as amended to August 1, 2024, is incorporated by reference and adopted as the Out-of-Hospital Trauma Triage Destination Decision Guideline for the state of Iowa.

135.2(2) Revisions and modifications to the protocols adopted by reference in subrule 135.2(1) may be made upon recommendation to and approval of the department.

641—135.3(147A) Offenses and penalties. The department may deny verification as a trauma care facility or deny authorization as a service program or may give a citation and warning, place on probation, suspend, or revoke existing trauma care facility verification or service program authorization if the department finds reason to believe that the facility or service program has not been or will not be operated in compliance with Iowa Code section 147A.27 and these administrative rules. The denial, citation and warning, period of probation, suspension, or revocation shall be effected and may be appealed in accordance with the requirements of 441—Chapter 7.

These rules are intended to implement Iowa Code section 147A.23.

ARC 8523C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to trauma registry and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 136, “Trauma Registry,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 147A.27.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 147A.26.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded and adopted anew as a part of the Red Tape Review process laid out by Executive Order 10. High-quality data from the trauma registry are critical to inform quality improvement and measure the performance of the statewide trauma system. Proposed Chapter 136 provides guidance to hospitals on high-quality data reporting of injured patients, which allows enhanced epidemiologic analysis to improve outcomes of injured patients in Iowa. This allows for focused quality improvement activities and maximizes the value of trauma benchmarking with the goal of reduced morbidity and mortality from injuries.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 15, 2025 1 to 2 p.m.	Via Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 a.m.	Via Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following new 641—Chapter 136:

CHAPTER 136
TRAUMA REGISTRY

641—136.1(147A) Definitions. For the purposes of these rules, the following definitions apply:

“Health care providers” for the purpose of this chapter includes licensed physicians, advanced registered nurse practitioners, physician assistants, and registered nurses.

“Inclusion criteria” means criteria determined by the department and adopted by reference to determine which trauma patients are to be included in the trauma registry.

“Reportable patient data” means data and definitions determined by the department and adopted by reference to be reported to the trauma registry on trauma patients meeting the inclusion criteria.

“Trauma care facility” means the same as defined in Iowa Code section 147A.21.

“Trauma patient” means a victim of an external cause of injury that results in major or minor tissue damage or destruction caused by intentional or unintentional exposure to thermal, mechanical, electrical or chemical energy, or by the absence of heat or oxygen.

“Trauma registry” means the data repository operated by the department to collect and analyze reportable patient data on the incidence, severity, and causes of trauma, and that serves as the central registry for brain and spinal cord injuries described in rule 641—21.1(135) and farm-related injuries.

“Trauma survey team” means a group of health care providers contracted by the department to assist in verifying trauma care facilities’ compliance with trauma criteria adopted by reference in 641—subrule 134.2(3).

641—136.2(147A) Trauma registry.

136.2(1) Trauma care facilities shall submit reportable patient data electronically to the department. Data shall be submitted in the trauma registry format operated by the department. The department may require those requesting the data to pay any or all of the reasonable costs associated with furnishing the reportable patient data.

136.2(2) Quality assurance of reported data.

a. For the purpose of ensuring the completeness and quality of reportable patient data, the department or its designated trauma survey team may examine medical records to validate the accuracy of data submitted by a trauma care facility.

b. Review of medical records by the department or its designated trauma survey team may be scheduled in advance with the trauma care facility.

641—136.3(147A) Offenses and penalties. All complaints, offenses and penalties will be addressed pursuant to rule 641—134.3(147A).

These rules are intended to implement Iowa Code section 147A.26.

ARC 8515C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

**Proposing rulemaking related to trauma education and training
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 137, “Trauma Education and Training,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 147A.27.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 147A.23.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded and adopted new as part of the Red Tape Review process laid out by Executive Order 10. Licensed health care providers (i.e., registered nurses, licensed practical nurses, physicians, advanced registered nurse practitioners, and physician assistants) must be prepared with knowledge and skills to provide optimal care to injured patients. Proposed Chapter 137 provides guidance to hospitals regarding the minimum educational requirements for health care providers to deliver high-quality trauma care, which will support the well-coordinated statewide trauma system to reduce the incidence of inadequate trauma care and preventable deaths, minimize human suffering, and decrease the costs associated with preventable mortality and morbidity.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 15, 2025 1 to 2 p.m.	Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 137 and adopt the following **new** chapter in lieu thereof:

CHAPTER 137
TRAUMA EDUCATION AND TRAINING

641—137.1(147A) Definitions. For the purposes of these rules, the following definitions apply:

“Advanced registered nurse practitioner” or *“ARNP”* means a nurse as defined in rule 655—7.1(152).

“Formal education” means education in standardized educational settings with a curriculum.

“Licensed practical nurse” or *“LPN”* means an individual licensed pursuant to Iowa Code chapter 152.

“Physician” means an individual licensed under Iowa Code chapter 148, 150 or 150A.

“Physician assistant” or *“PA”* means an individual licensed pursuant to Iowa Code chapter 148C.

“Practitioner” means a person who practices medicine or one of the associated health care professions.

“Registered nurse” or *“RN”* means an individual licensed pursuant to Iowa Code chapter 152.

“Trauma” means the same as defined in Iowa Code chapter 147A.

“Trauma care facility” means the same as defined in Iowa Code chapter 147A.

“Trauma patient” means a victim of an external cause of injury that results in major or minor tissue damage or destruction caused by intentional or unintentional exposure to thermal, mechanical, electrical or chemical energy, or by the absence of heat or oxygen.

“Verification” means the same as defined in Iowa Code chapter 147A.

641—137.2(147A) Initial trauma education requirements.

137.2(1) Trauma education is required of physicians, physician assistants, advanced registered nurse practitioners, registered nurses, and licensed practical nurses who are identified or defined as trauma team members by a trauma care facility and who participate directly in the initial resuscitation of the trauma patient.

137.2(2) Requirements for initial trauma education. Specific requirements for initial trauma education for each provider category are as follows:

a. Physicians, PAs and ARNPs shall comply with education criteria specific to the level for which the trauma care facility is verified. Physicians, PAs and ARNPs at verified level I, II, and III trauma care facilities shall comply with criteria according to the “Resources for Optimal Care of Injured Patients 2022 Standards” published by the American College of Surgeons. Physicians, PAs and ARNPs at verified level IV trauma care facilities shall comply with criteria according to the “Resources for Optimal Care of the Injured Patient 2014” published by the American College of Surgeons.

b. RNs and LPNs shall comply with education criteria specific to the level for which the trauma care facility is verified. RNs and LPNs at verified level I, II, and III trauma care facilities shall comply

with criteria according to the “Resources for Optimal Care of Injured Patients 2022 Standards” published by the American College of Surgeons. RNs and LPNs at verified level IV trauma care facilities shall comply with criteria according to the “Resources for Optimal Care of the Injured Patient 2014” published by the American College of Surgeons.

641—137.3(147A) Continuing trauma education requirements. Specific requirements for continuing trauma education for each provider category are as follows:

137.3(1) Physicians, PAs and ARNPs shall comply with education criteria specific to the level for which the trauma care facility is verified. Physicians, PAs and ARNPs at verified level I, II, and III trauma care facilities shall comply with criteria according to the “Resources for Optimal Care of Injured Patients 2022 Standards” published by the American College of Surgeons. Physicians, PAs and ARNPs at verified level IV trauma care facilities shall comply with criteria according to the “Resources for Optimal Care of the Injured Patient 2014” published by the American College of Surgeons.

137.3(2) RNs and LPNs shall comply with education criteria specific to the level for which the trauma care facility is verified. RNs and LPNs at verified level I, II, and III trauma care facilities shall comply with criteria according to the “Resources for Optimal Care of Injured Patients 2022 Standards” published by the American College of Surgeons. RNs and LPNs at verified level IV trauma care facilities shall comply with criteria according to the “Resources for Optimal Care of the Injured Patient 2014” published by the American College of Surgeons.

These rules are intended to implement Iowa Code chapter 147A.

ARC 8501C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to the trauma system advisory council and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 138, “Trauma System Advisory Council,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 147A.24.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 147A.24 and 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

This chapter was reviewed as part of the Red Tape Review process laid out by Executive Order 10. There is no statutory rulemaking authority for this chapter, and thus it is proposed to be rescinded.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliance@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 138**.

ARC 8538C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to emergency medical services
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 139, “Emergency Medical Services—Training Programs—Students—Complaints and Investigations,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 147A.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 147A.4.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded and adopted anew as part of the Red Tape Review process laid out by Executive Order 10. This proposed chapter establishes the standards and requirements for authorization of emergency medical care training programs in the state of Iowa, establishes the requirements of the training program related to preparing students for emergency medical provider certification in the state of Iowa, and describes the authority of the Department to impose disciplinary sanctions against a training program.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street

Des Moines, Iowa 50319
Email: compliance@hhs.iowa.gov

Public Hearing

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

January 15, 2025 1 to 2 p.m.	Via Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 a.m.	Via Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 139 and adopt the following **new** chapter in lieu thereof:

CHAPTER 139 EMERGENCY MEDICAL SERVICES—TRAINING PROGRAMS—STUDENTS—COMPLAINTS AND INVESTIGATIONS

641—139.1(147A) Definitions.

“Advanced emergency medical technician” or “AEMT” means the same as defined in rule 641—131.1(147A,147D,272C).

“CAPCE” means the same as defined in rule 641—131.1(147A,147D,272C).

“CEH” means the same as defined in rule 641—131.1(147A,147D,272C).

“Certification” or “certificate” means the same as defined in rule 641—131.1(147A,147D,272C).

“Certified” means the same as defined in rule 641—131.1(147A,147D,272C).

“CoAEMSP” means Committee on Accreditation for the EMS Professions.

“Core continuing education” means the same as defined in rule 641—131.1(147A,147D,272C).

“Course completion date” means the date of the final classroom session of an emergency medical care provider course.

“Course coordinator” means an individual who has been assigned by the training program to coordinate the activities of an emergency medical care provider course.

“Critical care paramedic” or “CCP” means the same as defined in rule 641—131.1(147A,147D,272C).

“Emergency medical care” means any medical procedure authorized by Iowa Code chapter 147A and 641—Chapter 131.

“Emergency medical care provider” means the same as defined in Iowa Code section 147A.1.

“Emergency medical care student” or “student” means any individual enrolled in an EMS training program.

“Emergency medical responder” or *“EMR”* means an individual who has successfully completed a course of study based on the U.S. Department of Transportation’s National Emergency Medical Services Education Standards (December 2021), has passed the department or National Registry of Emergency Medical Technicians (NREMT) testing requirements for the EMR, and is currently certified by the department as an EMR.

“Emergency medical services” or *“EMS”* means the same as defined in Iowa Code section 147A.1.

“Emergency medical technician” or *“EMT”* means the same as defined in rule 641—131.1(147A,147D,272C).

“EMS evaluator” or *“EMS-E”* means an individual who has successfully completed an EMS evaluator curriculum approved by the department and is currently endorsed by the department as an EMS-E.

“EMS instructor” or *“EMS-I”* means the same as defined in rule 641—131.1(147A,147D,272C).

“EMS training program” or *“training program”* means a program offered by an Iowa college approved by the Higher Learning Commission, an Iowa hospital, or a service program that has received authorization from the department to conduct emergency medical care training.

“Endorsement” or *“endorsed”* means the same as defined in rule 641—131.1(147A,147D,272C).

“Higher Learning Commission” means the independent corporation that accredits degree-granting postsecondary institutions in the north central region of the United States.

“NREMT” means the same as defined in rule 641—131.1(147A,147D,272C).

“Out-of-state student” means any individual participating in clinical or field experience as a student in an approved out-of-state training program.

“Out-of-state training program” means an EMS training program located outside the state of Iowa that is approved by the authorizing agency of the program’s home state to conduct initial EMS training for EMR, EMT, AEMT, paramedic or other levels certified by the department.

“Outreach course coordinator” means an individual assigned by the training program to coordinate the activities of an emergency medical care provider course held outside the training program facilities.

“Paramedic” or *“PM”* means the same as defined in rule 641—131.1(147A,147D,272C).

“Physician” means an individual licensed under Iowa Code chapter 148.

“Physician assistant” or *“PA”* means an individual licensed pursuant to Iowa Code chapter 148C.

“Preceptor” means an individual assigned by the training program, clinical facility or service program to supervise EMS students while the students are completing their classroom, clinical or field experience. A preceptor shall be an emergency medical care provider certified at the level at which the preceptor is providing supervision or at a higher level or be licensed as a physician, physician assistant or registered nurse.

“Primary instructor” means an individual who is responsible for teaching the majority of an emergency medical care provider course.

“Registered nurse” or *“RN”* means an individual licensed pursuant to Iowa Code chapter 152.

“Service program” or *“service”* means the same as defined in Iowa Code section 147A.1.

“Training program director” means a health care professional (full-time educator or practitioner of emergency or critical care) assigned by the training program to direct the operation of the training program.

“Training program medical director” means a physician licensed under Iowa Code chapter 148 who is responsible for providing medical oversight to an EMS training program.

641—139.2(147A) Initial application, renewal application, inspection and approval.

139.2(1) Initial application, inspection and approval.

a. An applicant seeking initial authorization as an EMS training program shall complete and submit to the department an Iowa EMS training program self-assessment application. The application is available from the department upon request.

b. The department will perform an on-site inspection of the applicant’s facilities and clinical resources. The purpose of the inspection is to examine educational objectives, patient care practices, facilities and administrative practices.

- c. A training program's initial authorization is for one year.
- d. No person shall interfere with the inspection activities of the department or its agents. Interference with or failure to allow an inspection may be cause for denial of authorization.

139.2(2) *Renewal application, inspection and approval.*

- a. A training program seeking renewal as an EMS training program shall complete and submit to the department the Iowa EMS training program self-assessment renewal application. The application is available from the department upon request.
- b. EMS training program renewal applications will be submitted at least 90 days before the end of the current authorization period.
- c. The department will complete an on-site inspection and review the self-assessment prior to the end of the current authorization period.
- d. Following the on-site inspection, the department will provide the training program a renewal application report detailing the status of the application.
- e. The department will authorize the training program or determine timelines for the correction of deficiencies in the renewal application.
- f. If the deficiencies are not corrected within the time period established by the department, the training program is subject to disciplinary action as described in rule 641—139.8(147A).
- g. A training program's approved renewal authorization will not exceed four years.
- h. No person shall interfere with the inspection activities of the department or its agents. Interference with or failure to allow an inspection may be cause for denial of authorization.

641—139.3(147A) Training program standards, student requirements and waivers.

139.3(1) *Education standards.* A training program shall:

- a. Have a sponsoring institution that has received authorization from the department to conduct emergency medical care services training.
- b. Use the U.S. Department of Transportation's National Emergency Medical Services Education Standards (December 2021) for any courses leading to Iowa certification.
- c. Use the Iowa CCP curriculum (January 2024) for courses leading to the CCP endorsement.
- d. Be accredited by, or have submitted a letter of review self-study to, CoAEMSP if graduating students are at the paramedic certification level.
- e. Document equivalent training and what portions of any course have been waived for equivalency. A training program may waive portions of the required emergency medical care provider training for students currently certified as emergency medical care providers or licensed in other health care professions, including but not limited to physician, nursing, physician assistant, respiratory therapist, dentistry, and military.

139.3(2) *Clinical or field experience resources.* Training programs shall:

- a. Have a mechanism to clearly identify students in the clinical or field setting, or both.
- b. Ensure that clinical experiences available are consistent with the needs of the curriculum and adequate for the number of students enrolled.
- c. Ensure that clinical affiliations that are outside of the sponsoring training program are established and confirmed in written agreements with institutions or agencies that provide clinical experience under appropriate medical direction and clinical supervision.
- d. Only allow students to perform skills and procedures in the classroom, clinical or field setting for which the students have received training with direct supervision by a preceptor designated and approved by the training program.

139.3(3) *Staff.* Training programs shall:

- a. Have a training program director who is a health care professional (full-time educator or practitioner of emergency or critical care) assigned by the training program to direct the operation of the training program.
- b. Have a training program medical director who shall, at a minimum, review the educational content of each training program curriculum, evaluate the quality of medical instruction, and supervise delivery of the curriculum by the faculty members.

c. Have qualified faculty through academic preparation, training, and experience to teach and evaluate the courses or topics to which they are assigned. At a minimum, each course coordinator, outreach course coordinator, and primary instructor utilized by the training program shall be endorsed as an Iowa EMS instructor.

139.3(4) *Student eligibility.* Training programs shall ensure that emergency medical care students meet the following requirements:

- a. Be at least 17 years of age on the date of enrollment.
- b. Have a high school diploma or its equivalent if enrolling in an AEMT or paramedic course.
- c. Be able to speak, write and read English.
- d. Be able to meet the minimum requirements for the department- or NREMT-approved testing requirements with reasonable and appropriate accommodations for those persons with documented disabilities, as required by the Americans with Disabilities Act (ADA) as amended to August 1, 2024.
- e. Be currently certified, at a minimum, as an EMT if enrolling in an AEMT or paramedic course.
- f. Be a current emergency medical care provider, RN, PA, or physician.

139.3(5) *Students.* Training programs shall:

- a. Have defined processes for review of academic history, criminal history, and health-related issues for the admission of students.
- b. Have a process to evaluate students on a recurring basis and with sufficient frequency to provide both the student and training program faculty with valid and timely indicators of the student's progress and achievement of the competencies and objectives stated within the program's curriculum.
- c. Have student guidance procedures that include documentation of regular and timely discussions with qualified faculty or counselors.
- d. Maintain student records for each student enrolled in each program.
- e. Notify the NREMT of each student's successful completion of a training course to ensure NREMT cognitive examination eligibility.
- f. Verify that a student completes all training program requirements before being eligible to attempt the department- or NREMT-approved testing requirements.
- g. Verify that a student completes all training program coursework and completes the department- or NREMT-approved testing requirements before applying to the department for an initial Iowa emergency medical care provider certification.
- h. Ensure that students only perform skills or procedures learned in the training program until an Iowa emergency medical care provider certification is obtained.
- i. Ensure that a student is not substituted for the regular personnel of any affiliated medical facility or service program but may be employed while enrolled in the training program.

139.3(6) *Financing and administration.* Training programs shall:

- a. Have sufficient equipment and supplies to be used in the provision of instruction. The equipment and supplies shall be available and consistent with the needs of the curriculum and adequate for the number of students enrolled.
- b. Have sufficient classrooms, laboratories, and administrative offices and facility design to accommodate the number of students in the program and the supporting faculty.
- c. Notify the department, in writing, of any change in ownership or control of the training program.
- d. Have liability insurance or offer liability insurance to enrolled students.

641—139.4(147A) Out-of-state training programs.

139.4(1) *Application, inspection and approval.*

- a. An out-of-state training program shall complete and submit to the department for review and approval the out-of-state training program self-assessment application. The application is available from the department upon request.
- b. An out-of-state training program's approval by the department shall not exceed four years.

c. An out-of-state training program seeking initial or renewal approval and graduating students at the paramedic level must also be accredited by, or have submitted a letter of review self-study to, CoAEMSP.

d. An out-of-state training program shall be limited to utilization of clinical sites or field sites, or both, within Iowa.

e. An authorized out-of-state training program shall provide the department with a current roster of students who will be participating in the clinical or field experience within the state of Iowa and, for each program, the sites where the students will be participating. This roster will be provided prior to commencement of any clinical or field experience.

f. An out-of-state training program shall provide documentation of liability insurance for each student participating in the clinical or field setting within the state of Iowa.

g. Failure to comply with these requirements may lead to disciplinary action or denial of utilization of clinical or field sites in Iowa.

h. The department may perform an on-site inspection of the out-of-state training program's facilities and clinical and field resources as part of the initial or renewal review process.

i. The department, without prior notification, may make inspections at times, at places and under such circumstances as it deems necessary to ensure compliance with Iowa Code chapter 147A and these rules.

j. No person shall interfere with the inspection activities of the department or its agents. Interference with or failure to allow an inspection may be cause for disciplinary action regarding training program approval.

k. Representatives of the training program may be required to meet with the department at the time the application and inspection report are discussed.

l. A written report of department action and the department inspection report will be sent to the training program.

m. A training program shall notify the department, in writing, of any change in ownership or control within 30 days.

139.4(2) Reserved.

641—139.5(147A) Failure to comply with rules. Failure of a training program to comply with these rules may result in disciplinary action according to rule 641—139.8(147A).

641—139.6(147A) Temporary waivers. If during a period of authorization there is some occurrence that temporarily causes a training program to be in noncompliance with these rules, the department may grant a temporary waiver.

139.6(1) Waivers of these rules may be granted by the department to a currently authorized training program.

139.6(2) Requests for waivers apply only to the training program requesting the waiver and apply only to those requirements and standards for which the department is responsible.

139.6(3) A training program can apply for a waiver in accordance with 441—Chapter 6.

641—139.7(147A) Continuing education providers—approval, recordkeeping and inspection.

139.7(1) A training program may conduct continuing education courses utilizing training program instructors.

139.7(2) Each training program shall assign a sponsor number to each core continuing education course using an assignment system approved by the department.

139.7(3) Course approval shall be completed prior to the course being offered.

139.7(4) Each training program shall maintain a participant record that includes, at a minimum, each participant's:

- a.* Name.
- b.* Address.
- c.* Certification number.
- d.* Course sponsor number.

- e.* Course instructor.
- f.* Date of course.
- g.* CEHs awarded.

139.7(5) The department may request additional information or inspect the records of any continuing education provider who is currently approved or who is seeking approval.

641—139.8(147A) Discipline—denial, citation and warning, probation, suspension, or revocation of training program approval or renewal.

139.8(1) This rule is not subject to waiver pursuant to 441—Chapter 6 or any other provision of law.

139.8(2) Method of discipline. The department has the authority to impose the following disciplinary sanctions against a training program:

- a.* Issue a citation and warning.
- b.* Impose a period of probation under specific conditions.
- c.* Prohibit permanently, until further order of the department, or for a specific period, a program's ability to engage in specific procedures, methods, acts or activities incident to the practice of the profession.
- d.* Suspend an authorization until further order of the department or for a specific period.
- e.* Deny an application for authorization.
- f.* Revoke an authorization.
- g.* Impose such other sanctions as allowed by law and as may be appropriate.

139.8(3) The department may impose any of the disciplinary sanctions provided in subrule 139.8(2) when it finds that the training program or applicant has failed to meet the applicable provisions of these rules or has committed any of the following acts or offenses:

- a.* Fraud in procuring approval or renewal.
- b.* Falsification of training or continuing education records or failure to document training or continuing education.
- c.* Suspension or revocation of approval to provide emergency medical care training or other disciplinary action taken pursuant to Iowa Code chapter 147A. A certified copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.
- d.* Engaging in any conduct that subverts or attempts to subvert a department investigation.
- e.* Failure to respond within 30 days of receipt of communication from the department that was sent by registered or certified mail.
- f.* Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.
- g.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- h.* Submission of a false report of continuing education or failure to submit the quarterly report of continuing education.
- i.* Knowingly aiding, assisting or advising a person to unlawfully practice EMS.
- j.* Representing itself as an approved training program or continuing education provider when approval has been suspended or revoked or when approval has lapsed or has been placed on inactive status.
- k.* Using an unqualified individual as an instructor or evaluator.
- l.* Allowing verbal or physical abuse of a student or staff.
- m.* Failing to verify registration of a student with the department within the timeline established by the department or allowing an unregistered student to function in a clinical environment.
- n.* Sexually harassing a patient, student or coworker. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature communicated in person, in writing, via a third person or through electronic communication.
- o.* Betrayal of a professional confidence.
- p.* Engaging in a professional conflict of interest.

q. Discrimination. A training program or continuing education provider shall not practice, condone, or facilitate discrimination against a patient, student, or supervisee on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.

r. Failure to comply with the 2015 Standards and Guidelines for the Accreditation of Educational Programs in the Emergency Medical Services Professions published by the Commission on Accreditation of Allied Health Education Programs.

641—139.9(147A) Complaints, investigations and appeals.

139.9(1) All complaints regarding an emergency medical care student, training programs or continuing education providers or those purporting to be or operating as the same shall be reported to the department in writing.

139.9(2) Any emergency medical care provider, emergency medical care student, training program or continuing education provider who has knowledge of an emergency medical care provider or service program that has violated Iowa Code chapter 147A, 641—Chapter 132 or these rules shall report such information to the department.

139.9(3) Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

139.9(4) A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the department orders otherwise.

139.9(5) Notice of denial, issuance of a citation and warning, probation, suspension or revocation shall be effected in accordance with the requirements of 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 147A.

ARC 8542C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

**Proposing rulemaking related to EMS system development grants fund
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 140, "Emergency Medical Services System Development Grants Fund," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 135.25.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 147A.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded and adopted new as part of the Red Tape Review process laid out by Executive Order 10. This proposed chapter provides clarity and a process for emergency medical services (EMS) system development grant requirements.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliance@hhs.iowa.gov

Public Hearing

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

January 15, 2025 1 to 2 p.m.	Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 140 and adopt the following **new** chapter in lieu thereof:

CHAPTER 140**EMERGENCY MEDICAL SERVICES SYSTEM DEVELOPMENT GRANTS FUND**

641—140.1(135) Definitions. For the purpose of these rules, the following definitions apply:

“Ambulance service” means the same as defined in 641—132.1(147A).

“CEHs” means the same as defined in 641—131.1(147A,147D,272C).

“Continuing education” means the same as defined in 641—131.1(147A,147D,272C).

“County EMS association” means a countywide group of EMS providers and various agency and organization representatives and consumers who provide leadership for the local EMS system on needs and objectives. The county EMS association should also include representatives of services located in a neighboring county if service is provided on a regular basis to residents of the county receiving funding.

“Emergency medical care provider” means the same as defined in Iowa Code section 147A.1.

“Emergency medical services” or *“EMS”* means the same as defined in Iowa Code section 147A.1.

“EMS course” means a course for emergency medical care personnel pursuant to Iowa Code section 147A.4(2).

“Infrastructure” means those elements that make up an EMS system.

“Nontransport service” means nontransport service as defined in 641—132.1(147A).

“Regional EMS council” means a multicounty nonprofit corporation whose purpose is to facilitate EMS development on a regional basis.

“Service program” means service program as defined in Iowa Code section 147A.1.

“Strategic plan” means a document produced via a multiagency effort to evaluate and define needs and goals to improve the local EMS system.

“Training” means EMS-related courses designed and intended for EMS providers and includes any item used in training, including but not limited to slides, films, mannequins, emergency care devices, books and other items pertinent and necessary for training purposes.

641—140.2(135) County EMS associations. Each county will have a county EMS association, council or board to develop and maintain the countywide EMS system strategic plan and to provide leadership on related EMS system development funding needs and objectives.

641—140.3(135) County EMS system development grants. Grants for EMS system development proposals at the regional, county, and local level are available through a grant process from the department to county boards of supervisors or local boards of health for equipment, training, and support of infrastructure needs as identified in the countywide EMS strategic plan and the department system standards. County boards of supervisors or local boards of health shall not take any administrative fee from these funds to support their work under this rule. County recipients of funds may subcontract work under this agreement to a county EMS association. Funds for training will be used to train members of a service program that provides service on a regular basis to residents of the county being funded. Funds for equipment require a \$1 match of regional, county, or local funds for each \$1 of EMS system development grant funds.

140.3(1) Eligible costs. Costs eligible for EMS system development grant expenditures as defined in the request for proposal (RFP) include:

a. Training.

(1) Reimbursement for initial training tuition, fees and materials up to an amount that is the lowest fee charged by the training entity following successful completion of an EMS course. Practical and written examination fees may also be included.

(2) Payment of continuing education tuition, fees and materials. Education provided by an EMS program for the general public is an allowable expense.

(3) Payment for EMS training aids.

b. Other equipment as defined by the RFP.

c. Infrastructure support.

(1) Development and enhancement of EMS systems.

(2) Office equipment and supplies necessary to coordinate a countywide EMS system.

(3) Personnel services for staffing to provide countywide continuous quality improvement and medical direction.

The title to any EMS equipment purchased with these funds does not lie with the department but will be determined by the county.

140.3(2) Ineligible costs. Costs not eligible for funding include:

- a. Certification/recertification fees.
- b. Building and construction costs.
- c. Debt amortization.
- d. Land.
- e. Rent.
- f. Utilities.
- g. Vehicles including ambulances, fire apparatus, boats, rescue/first-response vehicles, snowmobiles and vehicle parts.

These rules are intended to implement Iowa Code section 135.25.

ARC 8532C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to perinatal health care and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 150, "Iowa Regionalized System of Perinatal Health Care," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 135.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.11.

Purpose and Summary

The Iowa Code requires the Department to adopt rules to develop and maintain the statewide perinatal program. The purpose of the program is to allow health care providers to rapidly access specialty services for at-risk pregnant women and newborns. This helps providers, especially in rural areas, to know what physical facilities, equipment, medical personnel, and hospital systems the birthing hospital has so that an appropriate referral of the patient can be made quickly. There are Levels I, II, III and IV for maternal level of care and Levels I, II, III and IV for neonatal care. Level I hospitals provide basic obstetrical and newborn care. Level IV is the highest level of care for the most complex and critically ill pregnant women and infants.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 15, 2025 1 to 2 p.m.	Via Microsoft Teams Meeting ID: 264 876 129 663 Passcode: PMYX8N
January 21, 2025 9 to 10 a.m.	Via Microsoft Teams Meeting ID: 287 123 907 580 Passcode: hbQXQA

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 150 and adopt the following **new** chapter in lieu thereof:

CHAPTER 150
IOWA REGIONALIZED SYSTEM OF PERINATAL HEALTH CARE

641—150.1(135) Participation and designation. Hospitals within the state must determine whether to participate in Iowa's regionalized system of perinatal health care and will select the hospital's level of participation in the regionalized system. A hospital having determined to participate in the regionalized system must comply with the rules appropriate to the levels of participation for maternal care and neonatal care selected by the hospital. Maternal levels of designation and neonatal levels of designation are evaluated separately, and a hospital may have a level of designation for maternal care that is different

from the level of designation for neonatal care; however, a pregnant woman should be cared for at the hospital that best meets both her and her newborn infant's needs.

641—150.2(135) Definitions.

“Categorization” means a preliminary determination by the department that a hospital is capable of providing maternal care and neonatal care at Level I, Level II, Level III, or Level IV.

“Certificate of verification” means a document awarded by the department that identifies a hospital's level of maternal care and neonatal care at Level I, Level II, Level III, or Level IV and the term of verification at that level.

“Hospital” means a facility licensed under Iowa Code chapter 135B.

“Late preterm” means that a newborn infant is born between 34 0/7 and 36 6/7 weeks' gestation.

“Levels-of-care assessment tool” or *“tool”* means a tool to assess the maternal and neonatal risk-appropriate care, using the minimum information necessary to identify a hospital's maternal level of care based on criteria by the American Congress of Obstetricians and Gynecologists/Society for Maternal-Fetal Medicine and a hospital's neonatal level of care based on criteria by the American Academy of Pediatrics. The tool will be chosen by the department in consultation with the perinatal guidelines advisory committee.

“Neonate” means a newborn infant, up to 28 days of life.

“On-site verification survey” means an on-site survey conducted by the department's statewide perinatal care team based at the University of Iowa health care medical center or by a survey team of members (medical experts) contracted to assess a hospital's ability to meet the level of designation selected by the hospital.

“Perinatal” means the five months before and one month after birth.

“Perinatal center” means a medical facility capable of providing complex obstetric, fetal and neonatal care.

“Prenatal” means during pregnancy.

“Readily available” means on site or at a closely related institution by prearranged consultative agreement.

“Regionalized system of perinatal health care” means the department's program for designating regional perinatal health care services at a verified level of care, based on a hospital's functional capabilities. Levels of care designations are stratified in an increasing order of intensity and complexity for both maternal health care and neonatal health care.

“Regionalized system of perinatal health care coordinator” means the department's program manager for the regionalized system of perinatal health care.

“Respiratory distress” means tachypnea (respiratory rate of 60 or more per minute), grunting, tugging, retracting, nasal flaring, or cyanosis. Any or all of these may constitute respiratory distress in a neonate.

“Reverification” means the process of periodic review, conducted at least every three years, to certify that a hospital has maintained its designated level of care in accordance with criteria established under these rules for hospitals that are participating in the regionalized system of perinatal health care.

“Statewide perinatal care program” means a program consisting of the regionalized system of perinatal health care coordinator, the statewide perinatal care team contracted by the department, and the regionalized system of perinatal health care as defined in these rules.

“Statewide perinatal care team” means the educational team based at the University of Iowa health care medical center and contracted by the department to support the regionalized system of perinatal health care and to provide services to decrease perinatal morbidity and mortality.

“Verification” means a process by which the department certifies a hospital's capacity to provide perinatal care in accordance with criteria established under these rules for hospitals that are participating in the regionalized system of perinatal health care.

641—150.3(135) Duties of statewide perinatal care team. The team will:

1. Promote evidence-based and evidence-informed care of pregnant women and newborns.

2. Provide education and consultation to regional and primary providers of perinatal care.
3. Provide chart review to assess quality of care provided and additional education required.
4. Promote change in practice when needed through sharing best practice ideas, policies and procedures.
5. Promote maternal-fetal transfer if delivery of an at-risk infant or mother is anticipated and a higher level of care is anticipated.
6. Provide on-site verification to determine a hospital's ability to meet its level-of-care designation.

641—150.4(135) Duties of the department. The department will:

1. Certify a hospital's capacity to provide perinatal health care in accordance with criteria established under these rules.
2. Provide technical assistance to the hospitals that choose to participate.
3. Review the submitted levels-of-care assessment tool from all participating hospitals.
4. Conduct or coordinate the on-site verification of determined levels of care for maternal and neonatal care hospitals designated as Level I, Level II, Level III and Level IV.

641—150.5(135) Maternal and neonatal levels of care—categorization and verification. Categorization and verification of hospitals participating in Iowa's regionalized system of perinatal health care will be made by the department based on national recommendations from the American Academy of Pediatrics and the American Congress of Obstetricians and Gynecologists.

150.5(1) Application for initial verification.

- a. An application for initial verification may be submitted when:
 - (1) A new hospital with a perinatal service is opened;
 - (2) A hospital is reopening after a previously inactive obstetrical unit; or
 - (3) A hospital requests a change to a higher-level designation in maternal care or neonatal care.
- b. A hospital requesting an initial verification may obtain application materials from the department.
- c. Upon receipt of an application from a hospital that is requesting to change to a higher level of maternal or neonatal care, the department will request and review copies of the results of the last site visit to the hospital by the statewide perinatal team or request a site visit. The results of the site visit along with the application will be shared with the statewide perinatal team and any clinical experts appointed by the department to determine if all requirements are met. The recommendations will be sent to the department, which will notify the hospital if its application is approved or denied. If the application is denied, the applicant will be informed of the applicant's right to appeal the department's decision.

150.5(2) Application for a hospital that has previously participated in the regionalized system of perinatal health care.

- a. If a hospital chooses to continue its participation, the hospital must select the levels for maternal care and neonatal care appropriate for the hospital's capacity to provide perinatal health care in accordance with the criteria outlined in these rules.
- b. To maintain continuous participation in the regionalized system of perinatal health care, a hospital must complete the levels-of-care assessment tool and an attestation statement. These can be obtained from the department.
- c. The department will set dates when each hospital's certification of verification will expire based on the statewide perinatal health care team's site visit schedule and the level of care selected.

150.5(3) Reverification of level designation. The levels-of-care assessment tool will be used for all reverifications. The process of reverification of a hospital participating in the regionalized system of perinatal health care will take place once every six years as follows:

- a. Reverification of a Level I, Level II or Level III maternal care or neonatal care hospital will be completed through use of the levels-of-care assessment tool and an on-site reverification visit. A hospital must complete and return the levels-of-care assessment tool to the department at least 120 days before the hospital's certification is due to expire. The department will ensure that arrangements are made for

the on-site reverification visit. Level II and Level III hospitals may utilize one of two on-site reverification visit options:

- (1) A review conducted by the statewide perinatal care team, or
- (2) A review by an independent out-of-state team identified by the hospital, approved by the department and paid for by the hospital.

b. Reverification of a Level IV maternal care and neonatal care hospital will be completed through the same process as that for a Level I, Level II or Level III maternal care or neonatal care hospital except that the on-site reverification team will consist of an out-of-state team identified by the hospital and approved by the department. The team will include, at a minimum, a maternal-fetal specialist, a neonatologist, an obstetrical nurse and a neonatal nurse. The Level IV hospital will pay the expense of the review team. All department staff and staff contracted by the department involved in the on-site reverification process will sign a confidentiality statement that will be kept on file at the department.

c. Reverification shall not be construed to imply any guarantee on the part of the department as to the level of perinatal health care services available at a hospital.

d. Hospital reverification of the level of care is valid for a period of six years from the effective date unless otherwise specified on the certificate of verification or unless sooner suspended or revoked.

e. As part of the reverification and renewal process, the department or a designated survey team may conduct periodic on-site reviews of the services of the maternal care and neonatal care hospitals, including chart reviews.

150.5(4) *Level designation maintenance, waiver and confidential records.*

a. A hospital that is unable to maintain its designated level of care will notify the department, in writing, within 60 days of the change in capacity to meet the designated level of care.

b. The director may grant a waiver from the requirements of rules adopted under this chapter for any hospital participating in the regionalized system of perinatal health care.

c. Proceedings, records, and reports developed pursuant to this chapter are confidential pursuant to Iowa Code section 135.11(22) and constitute peer review records under Iowa Code section 147.135, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the affected hospital, and are not admissible in evidence in a judicial or administrative proceeding other than a proceeding involving verification of the participating hospital.

641—150.6(135) Levels of maternal care. The levels of maternal care include basic obstetrical care Level I, specialty care Level II, subspecialty care Level III and regional perinatal health care Level IV. The levels reflect the overall evidence for risk-appropriate care in a hospital through the availability of appropriate personnel, physical space, equipment, technology, and organization. Each level reflects the minimal capabilities, provider type and functional criteria required.

150.6(1) *Level I maternal care hospital.*

a. Provider of basic obstetrical care. A Level I maternal care hospital provides care to women who are low risk and are expected to have an uncomplicated birth.

b. Capabilities. A Level I maternal care hospital has the following capabilities:

(1) To perform routine intrapartum and postpartum care that is anticipated to be uncomplicated. Care of uncomplicated pregnancies includes the ability to detect, stabilize and initiate management of unanticipated maternal, fetal or neonatal problems that occur during the antepartum, intrapartum, or postpartum period until the patient can be transferred to a facility that provides specialty maternal care.

(2) To begin an emergency cesarean delivery within a time interval that best incorporates maternal and fetal risks and benefits with the provision of emergency care.

c. Types of health care providers. A Level I maternal care hospital will have:

(1) Maternity care providers, including certified nurse-midwives, family practice physicians, or obstetrician-gynecologists, available to attend all births.

(2) Every birth attended by at least two professionals, including the primary maternal care provider and a person competent to provide neonatal resuscitation and postnatal care to stabilize the infant.

(3) Adequate numbers of registered nurses available who have completed orientation and demonstrated competence in the care of obstetric patients, including women and fetuses, consistent with Level I care criteria and who are able to stabilize and transfer high-risk women and newborns.

(4) Nursing leadership with expertise in perinatal nursing care.

(5) A provider with privileges to perform an emergency cesarean delivery, available to attend all deliveries. The provider may be a general surgeon, an obstetrician-gynecologist, or a family practice physician with certification.

(6) A provider of anesthesia services available to provide labor analgesia and surgical anesthesia.

d. Functional criteria of support services. Support services include but are not limited to access to obstetric ultrasonography, laboratory testing, and blood bank supplies at all times. A Level I maternal care hospital will:

(1) Have protocols and capabilities in place for:

1. Massive transfusion,
2. Emergency release of blood products (before full compatibility testing is complete),
3. Management of multiple component therapy.

(2) Ensure optimal care of all pregnant women by having formal transfer plans established in partnership with a higher-level receiving hospital. These plans will include:

1. Risk identification,
2. Determination of conditions necessitating consultation,
3. Referral and transfer, and
4. A reliable, accurate, and comprehensive communication system between the participating hospital and the transport team.

(3) Have education and quality improvement programs to maximize patient safety, provide such programs through collaboration with facilities with higher levels of care that receive transfers, or both.

(4) Have data collection, storage and retrieval to support quality improvement.

150.6(2) Level II maternal care hospital.

a. Provider of specialty care. In addition to meeting the criteria of a Level I maternal care hospital, a Level II maternal care hospital provides care of appropriate high-risk pregnant women, both those directly admitted to the hospital and those transferred from another hospital.

b. Capabilities. In addition to having the capabilities of a Level I maternal care hospital, a Level II maternal care hospital has the following capabilities:

(1) The infrastructure for continuous availability of adequate numbers of registered nurses who have demonstrated competence in the care of obstetric patients (women and fetuses).

(2) Orientation and demonstrated competence consistent with Level II care criteria and the capability to stabilize and transfer high-risk women and newborns who exceed Level II care criteria.

c. Types of health care providers. In addition to meeting the health care provider requirements of a Level I maternal care hospital, a Level II maternal care hospital will have:

(1) Health care providers, including certified nurse-midwives or family physicians.

(2) Nursing leaders and staff with formal training and experience in the provision of perinatal nursing care who can coordinate with respective neonatal care services.

(3) An attending obstetrician-gynecologist available at all times.

(4) A board-certified or board-eligible obstetrician-gynecologist with special interest and experience in obstetric care as the director of obstetric services.

(5) Access to a maternal-fetal medicine subspecialist for consultation, available on site, by telephone, or by telemedicine as needed.

(6) A provider of anesthesia services available at all times to provide labor analgesia and surgical anesthesia.

(7) A board-certified or board-eligible anesthesiologist with special training or experience in obstetric anesthesia, available for consultation.

(8) Medical and surgical consultants available to stabilize obstetric patients who have been directly admitted to the facility or transferred from other hospitals.

d. Functional criteria of support services. In addition to meeting the support services requirements of a Level I maternal care hospital, a Level II maternal care hospital will have:

- (1) Computed tomography scan and, ideally, magnetic resonance imaging with interpretation available.
- (2) Basic ultrasonographic imaging services for maternal and fetal assessment at all times, either in house or on call.
- (3) Special equipment needed to accommodate the care and services needed for obese women. In addition, based on the patient's BMI and other risk factors, a consultation with an obstetrician-gynecologist or a maternal fetal medicine specialist should be considered.
- (4) The ability to provide high-risk obstetrical care, but efforts should be made to transfer women whose newborns are likely to need a higher level of care than a Level II maternal care hospital can provide, or when the pregnancy has risk factors that require the consultation or care of a maternal-fetal medicine specialist.

150.6(3) Level III maternal care hospital.

a. Provider of subspecialty care. A Level III maternal care hospital provides care to women that includes all Level I and Level II services and has subspecialists available on site, by telephone, or by telemedicine to assist in providing care for more complex maternal and fetal conditions.

b. Capabilities. A Level III maternal care hospital functions as the regional perinatal health care center for some areas of Iowa if there are no Level IV maternal care hospitals available. In these areas, a Level III maternal care hospital will be responsible for the leadership; facilitation of transport and referral; educational outreach; and data collection, storage and retrieval to support quality improvement. Designation of Level III maternal care hospital should be based on the demonstrated experience and capability of the facility to provide comprehensive management of severe maternal and fetal complications.

c. Types of health care providers. In addition to meeting the health care provider requirements of a Level II maternal care hospital, a Level III maternal care hospital will have:

- (1) An obstetrician-gynecologist with inpatient privileges, available on site at all times.
- (2) A maternal-fetal medicine subspecialist with inpatient privileges, available at all times, either on site, by telephone, or by telemedicine.
- (3) A director of the maternal-fetal medicine service who is a board-certified or board-eligible maternal-fetal medicine subspecialist.
- (4) A board-certified or board-eligible obstetrician-gynecologist with special interest and experience in obstetric care directing obstetric services.
- (5) A provider of anesthesia services available at all times on site.
- (6) A board-certified or board-eligible anesthesiologist with special training or experience in obstetric anesthesia who is in charge of obstetric anesthesia services.
- (7) A full complement of subspecialists, available for inpatient consultations, including subspecialists in:
 1. Critical care,
 2. General surgery,
 3. Infectious disease,
 4. Hematology,
 5. Cardiology,
 6. Nephrology,
 7. Neurology, and
 8. Neonatology.
- (8) Nursing leaders and adequate numbers of registered nurses who have completed orientation and demonstrated competence in the care of obstetric patients (women and fetuses) consistent with Level III care criteria, including the transfer of high-risk women who exceed Level III care criteria, and who have special training and experience in the management of women with complex maternal illnesses and obstetric complications. Nursing personnel will be continuously available.

d. Functional criteria of support services. In addition to meeting the support services requirements of a Level II maternal care hospital, a Level III maternal care hospital will have:

- (1) An on-site intensive care unit to accept pregnant women.
- (2) Critical care providers on site to actively collaborate with maternal-fetal specialists at all times.
- (3) Equipment and personnel with expertise available on site to ventilate and monitor women in the labor and delivery unit until they can be safely transferred to the intensive care unit.
- (4) The ability to provide the following imaging services, with interpretation available at all times:
 1. Basic interventional radiology,
 2. Maternal echocardiography,
 3. Computed tomography,
 4. Magnetic resonance imaging, and
 5. Nuclear medicine imaging.
- (5) The ability to perform detailed obstetric ultrasonography and fetal assessment, including Doppler studies.

150.6(4) Level IV maternal care hospital.

a. Provider of services as a regional perinatal health care center. In addition to meeting the requirements for a Level III maternal care hospital, a Level IV maternal care hospital provides care to women with additional requirements and has considerable experience in the care of the most complex and critically ill pregnant women throughout antepartum, intrapartum, and postpartum care. The particular specialty of fetal surgery, advanced neurosurgery, transplant, and advanced cardiovascular capabilities may not all be available at an individual Level IV maternal care hospital. In some cases, specific advanced care will require care coordination to the Level IV maternal care hospital by availability of specific expertise, including but not limited to fetal surgery, advanced neurosurgery, transplant, and advanced cardiovascular capabilities. Each hospital will have a clear understanding of the categories of perinatal patients who can be managed appropriately in the local hospital and those who must be transferred.

b. Capabilities. Although Level III and Level IV maternal care hospitals may seem to overlap, a Level IV maternal care hospital is distinct from a Level III maternal care hospital in the approach to the care of pregnant women and women in the postpartum period with complex and critical illnesses. In addition to having an intensive care unit on site for obstetric patients, a Level IV maternal care hospital must have evidence of a maternal-fetal medicine care team that has the expertise to assume responsibility for pregnant women and women in the postpartum period who are in critical condition or have complex medical conditions. The maternal-fetal medicine team collaborates actively in the co-management of all obstetric patients who require critical care and intensive care unit services, including co-management of intensive care unit-admitted obstetric patients.

c. Types of health care providers. In addition to meeting the health care provider requirements of a Level III maternal care hospital, a Level IV maternal care hospital will have:

- (1) A maternal-fetal medicine team member with full privileges, available at all times for on-site consultation and management.
- (2) A board-certified maternal-fetal medicine subspecialist with expertise in critical care obstetrics to lead the team.
- (3) A maternal-fetal medicine team with expertise in critical care at the physician level, nursing level, and ancillary services level.
- (4) Institutional support for the routine involvement of a maternal-fetal medicine care team with the critical care units and specialists. A key principle of caring for critically ill pregnant and peripartum women is the hospital's recognition of the need for seamless communication between maternal-fetal medicine subspecialists and other subspecialists in the planning and facilitation of care for women with the most high-risk complications of pregnancy.
- (5) A commitment to having physician and nursing leaders with expertise in maternal intensive and critical care, as well as adequate numbers of available registered nurses in a Level IV maternal care hospital who have experience in the care of women with complex medical illnesses and obstetric

complications; this experience includes completed orientation and demonstrated competence in the care of obstetric patients (women and fetuses) consistent with Level IV maternal care criteria.

(6) A director of obstetric services who is a board-certified maternal-fetal medicine subspecialist or a board-certified obstetrician-gynecologist with expertise in critical care obstetrics.

(7) A provider of anesthesia services available on site at all times.

(8) A board-certified anesthesiologist with special training or experience in obstetric anesthesia who is in charge of obstetric anesthesia services.

(9) Adult medical and surgical specialty and subspecialty consultants, a minimum of those listed for a Level III maternal care hospital, available on site at all times to collaborate with the maternal-fetal medicine care team.

d. Functional criteria of support services. In addition to meeting the support services requirements of a Level III maternal care hospital, a Level IV maternal care hospital will have:

(1) The capability for on-site medical and surgical care of complex maternal conditions (e.g., congenital maternal cardiac lesions, vascular injuries, neurosurgical emergencies, and transplants) with the availability of critical (or intensive) care unit beds.

(2) Perinatal system leadership, including facilitation of maternal referral and transport, outreach education for facilities and health care providers in the region and analysis and evaluation of regional data, including perinatal complications, outcomes and quality improvement.

641—150.7(135) Maternal-fetal transport—all levels. Maternal-fetal transport is an essential component of perinatal care. A hospital participating in the regionalized system of perinatal health care must be familiar with its own resources and capabilities in dealing with obstetrical and neonatal complications. In most instances, maternal-fetal transport is preferable to neonatal transport. Each hospital, when transporting or accepting a transport, needs a system in place to facilitate a smooth transition of care in the most expeditious manner possible. The majority of maternal-fetal transports can be carried out by ground transportation. It is important for ambulance services to be equipped for maternal-fetal transport and have appropriately trained staff.

641—150.8(135) Levels of neonatal care. The levels of neonatal care include basic neonatal care Level I, specialty care Level II, and subspecialty intensive care Level III and Level IV. The levels reflect the overall evidence for risk-appropriate care through the availability of appropriate functional criteria, physical facilities, medical and nursing personnel, outreach education, allied health personnel and services, infection control, newborn or neonatal safety, neonatal transport and quality improvement.

150.8(1) Level I neonatal care hospital.

a. Provider of basic neonatal care. A Level I neonatal care hospital provides a basic level of care to neonates without complications. A Level I neonatal care hospital has the following capabilities:

(1) To provide neonatal resuscitation at every delivery.

(2) To evaluate and provide postnatal care to stable term newborn infants.

(3) To stabilize and provide care for infants born at 35 to 37 weeks' gestation who remain physiologically stable.

(4) To stabilize newborn infants who are ill and those born at less than 35 weeks' gestation until transfer to a higher level of care.

(5) To provide leadership in early risk identification before and after birth.

(6) To seek consultation or referral for high-risk neonates.

(7) To provide public and professional education.

b. Functions. A Level I neonatal care hospital has a family-centered philosophy. Parents have reasonable access to their newborns 24 hours a day within all functional units and are encouraged to participate in the care of their newborns. Generally, a newborn can be with its parents in the mother's room.

c. Physical facilities. A Level I neonatal care hospital will maintain a nursery for normal-term or late preterm neonates.

d. *Medical personnel.* At a Level I neonatal care hospital, neonatal care is under the supervision of one of the following:

- (1) A board-eligible or board-certified neonatologist,
- (2) A pediatrician,
- (3) A family medicine physician,
- (4) A board-eligible or board-certified advanced registered nurse practitioner, or
- (5) A physician assistant.

e. *Nursing personnel.* At a Level I neonatal care hospital, a registered nurse assigned to the neonatal service has nursing orientation to and demonstrates competency in the care of a neonate.

f. *Outreach education.* A Level I neonatal care hospital will assume an active role in the development and coordination of wellness and preventive programs concerning neonatal and child health at the community level, including parenting, breastfeeding, and cessation of smoking.

g. *Allied health personnel and services.* A Level I neonatal care hospital will have available, at a minimum, the following allied health personnel and services:

- (1) Dietitian with knowledge of maternal and neonatal nutrition management,
- (2) Social worker,
- (3) Bioengineer-safety and environmental control,
- (4) Pharmacy,
- (5) Radiology,
- (6) Laboratory,
- (7) Pathology, and
- (8) Chaplain, spiritual support.

h. *Infection control.*

(1) Each Level I neonatal care hospital will establish written policies and procedures for assessing the health of personnel assigned to the perinatal care services and of those who have significant contact with the newborn. The policies and procedures will include restricting contact with patients when necessary and screening per department recommendations for health care providers. Routine culturing of specimens obtained from personnel is not useful, although selective culturing may be of value when a pattern of infection is suspected.

(2) No special or separate isolation facility is required for neonates born at home or in transit to the hospital. Detailed descriptions of the isolation categories and requirements will be available in each hospital's infection control manual.

i. *Newborn safety.* At a Level I neonatal care hospital, the protection of newborns is the responsibility of all personnel in the neonatal care hospital. Newborns will always be within the sight and supervision of hospital staff, the mother, or other family members or friends designated by the mother. Each neonatal care hospital has a policy established that addresses strategies to promote newborn safety.

150.8(2) *Level II neonatal care hospital.*

a. *Provider of specialty care.* In addition to meeting the requirements for care and services as a Level I neonatal care hospital, a Level II neonatal care hospital will:

- (1) Provide management of certain high-risk neonates with selected complications.
- (2) Have a board-certified or board-eligible neonatologist(s) or a board-certified or board-eligible pediatrician(s) on staff, one of whom directs the special care nursery.

b. *Functions.* In addition to performing the functions of a Level I neonatal care hospital, a Level II neonatal care hospital will have the capability to:

(1) At a minimum, manage neonates of greater than or equal to 32 weeks' gestation and weighing greater than or equal to 1,500 grams who have physiological immaturity or who are moderately ill with problems that are expected to resolve rapidly and are not anticipated to need subspecialty services on an urgent basis and, for neonates of 32 weeks' gestation and weighing less than 1,500 grams, recommend consultation with a higher-level facility by prearranged consultative agreement.

(2) Provide mechanical ventilation for a brief duration (less than 24 hours).

(3) Provide continuous positive airway pressure as needed (less than 24 hours).

(4) Stabilize infants born before 32 weeks and weighing less than 1,500 grams until transfer to a Level III or Level IV neonatal care hospital.

(5) Provide care for infants convalescing after intensive care.

c. *Physical facilities.* In addition to having the physical facilities of a Level I neonatal care hospital, a Level II neonatal care hospital will have:

- (1) A special care nursery (a special area designated for the care of sick neonates),
- (2) A mechanical ventilator,
- (3) A portable X-ray machine,
- (4) A laboratory with a blood gas analyzer,
- (5) Physiologic monitoring equipment, and
- (6) A pharmacy.

d. *Medical personnel.* In addition to having the medical personnel of a Level I neonatal care hospital, a Level II neonatal care hospital will:

(1) Be under the co-direction/supervision of a board-eligible or board-certified neonatologist or pediatrician.

(2) Have a neonatologist or pediatrician on staff. Other provider types that may be utilized include a pediatric hospitalist, a neonatal nurse practitioner or pediatric nurse practitioner or a physician assistant with appropriate training.

(3) Have allied medical specialists in various disciplines on staff, including specialists in internal medicine, radiology, and pathology.

e. *Nursing personnel.* In addition to having the nursing personnel of a Level I neonatal care hospital, a Level II neonatal care hospital has nursing orientation to and demonstrates competency in the care of sick neonates.

f. *Outreach education.* A Level II neonatal care hospital has the same responsibility for outreach education as that of a Level I neonatal care hospital.

g. *Allied health personnel and services.* In addition to having the allied health personnel and services of a Level I neonatal care hospital, a Level II neonatal care hospital has:

- (1) Respiratory therapists,
- (2) Certified laboratory technicians/blood gas technicians, and
- (3) X-ray technologists and ultrasound technicians with neonatal/perinatal experience.

h. *Infection control.* A Level II neonatal care hospital has the same infection control guidelines as those for a Level I neonatal care hospital.

i. *Neonatal safety.* A Level II neonatal care hospital has the same requirements for newborn safety as those for a Level I neonatal care hospital.

j. *Neonatal transport.* In addition to having the Level I neonatal care hospital capabilities for neonatal transport, a Level II neonatal care hospital is expected to accept patient referrals when appropriate. A critical function of providers at a Level II neonatal care hospital is to communicate with the providers at a Level I neonatal care hospital in deciding whether a particular patient should be transported to the Level II neonatal care hospital. Careful assessment of the hospital's capabilities for perinatal management will be critical in these decisions. This information will need to be disseminated among the hospital staff. Providers of obstetric care need to know the critical gestational age limitations for their particular nursery. Below this gestational age, maternal-fetal transport should be utilized if delivery is anticipated and the circumstances permit.

k. *Perinatal care committee.*

(1) A Level II neonatal care hospital must maintain a perinatal care committee. Members of this committee will represent, at a minimum, the fields of:

1. Obstetrics,
2. Pediatrics,
3. Family practice,
4. Nursing,
5. Administration,
6. Laboratory,

7. Respiratory therapy,
8. Anesthesia, and
9. Social services.

(2) Responsibilities of the perinatal care committee include the following:

1. To develop policies for the unit, including provisions to ensure adequate patient care by qualified providers.
2. To conduct a meeting, at least semiannually, to resolve problems related to the unit.
3. To review educational activities conducted by the unit.
4. To serve as a general liaison between the various groups represented on the committee.

150.8(3) Level III neonatal care hospital.

a. Provider of subspecialty intensive care. In addition to providing the care and services of a Level II neonatal care hospital, a Level III neonatal care hospital will manage high-risk neonates, including infants born at less than 32 weeks or weighing less than 1,500 grams. High-risk neonates requiring surgical intervention or pediatric subspecialty should go to a Level IV neonatal care hospital.

b. Functions. In addition to performing the functions of a Level II neonatal care hospital, a Level III neonatal care hospital will have the capability to:

- (1) Provide sustained life support.
- (2) Provide comprehensive care for infants born at less than 32 weeks and weighing less than 1,500 grams and infants born at all gestations and birth weights who have critical illness.
- (3) Provide an organized program for monitoring treatment and follow-up of retinopathy of prematurity.

(4) Maintain a prearranged consultative agreement with a higher-level hospital within the Level III neonatal care hospital's referral area.

(5) Transfer a surgical patient within approximately two hours from the time the referral call is made until arrival at the referral hospital.

(6) Provide follow-up care for high-risk newborns.

c. Physical facilities. In addition to having the physical facilities of a Level II neonatal care hospital, a Level III neonatal care hospital:

- (1) Has a neonatal intensive care unit with continuously available personnel, including a neonatologist, neonatal nurses and respiratory therapists to provide life support for as long as necessary.
- (2) Provides a full range of respiratory support that includes invasive mechanical ventilation and may include high-frequency ventilation or inhaled nitric oxide or both.
- (3) Performs advanced imaging, with interpretation on an urgent basis, including computed tomography, magnetic resonance imaging, and echocardiography.
- (4) Maintains a neonatal transport team for the regional area served.

d. Medical personnel. In addition to having the medical personnel of a Level II neonatal care hospital, a Level III neonatal care hospital will:

(1) Have a medical director of the neonatal intensive care unit who is a full-time, board-eligible or board-certified neonatologist.

(2) Provide prompt and readily available access to the following, either on site or by prearranged consultative agreement. Using telemedicine technology or telephone consultation, a prearranged consultation can be performed from a distant location by:

1. Pediatric medical subspecialists,
2. A pediatric surgical specialist,
3. A pediatric anesthesiologist, and
4. A pediatric ophthalmologist.

(3) Have a neonatologist on the premises when an unstable critically ill infant is in the Level III neonatal care hospital.

e. Nursing personnel. A Level III neonatal care hospital has the same requirements for nursing personnel as those of a Level II neonatal care hospital.

f. Outreach education. Outreach education is provided to each hospital in the referral area at least once per year. This outreach education can be achieved by one or more of the following:

- (1) Sponsoring an annual conference.
- (2) Visiting a Level I neonatal care hospital and a Level II neonatal care hospital.
- (3) Providing educational programs and materials for the staff members of the Level I and Level II neonatal care hospitals.

g. Allied health personnel and services. In addition to having the allied health personnel and services of a Level II neonatal care hospital, a Level III neonatal care hospital has:

- (1) X-ray technologists and ultrasound technicians with neonatal/perinatal experience, available on a 24-hour basis.

- (2) Social work services with social workers assigned specifically to the neonatal units.

h. Infection control. A Level III neonatal care hospital has the same infection control guidelines as those of a Level I neonatal care hospital.

i. Neonatal safety. A Level III neonatal care hospital has the same requirements for newborn safety as those for a Level I neonatal care hospital.

j. Neonatal transport. In addition to having the Level II neonatal care hospital transport capabilities, a Level III neonatal care hospital is capable of providing neonatal transport with crews who have demonstrated competence in neonatal resuscitation and stabilization. Important decisions to be made jointly will include:

- (1) The appropriateness of transport.
- (2) The best mode of transportation.
- (3) The need for additional personnel accompanying the transport.
- (4) The appropriate medical management to initiate prior to transport.

k. Perinatal care committee. A Level III neonatal care hospital shall maintain a perinatal care committee that meets the same criteria as those for a Level II neonatal care hospital.

150.8(4) Level IV neonatal care hospital.

a. Provider of subspecialty intensive care. In addition to providing the level-of-care services of a Level III neonatal care hospital, a Level IV neonatal care hospital manages higher-risk neonates. The differentiating factor between a Level III neonatal care hospital and a Level IV neonatal care hospital is primarily one of having additional professional staff with considerable experience in the care of the most complex and critically ill infants and having the ability to provide surgical repair of complex congenital or acquired conditions.

b. Physical facilities. In addition to having the physical facilities of a Level III neonatal care hospital, a Level IV neonatal care hospital has more equipment, more extensive physical facilities and will serve a more complicated patient population.

c. Medical personnel. In addition to having the medical personnel of a Level III neonatal care hospital, a Level IV neonatal care hospital will:

- (1) Have a medical director of the neonatal intensive care unit who is a full-time, board-certified neonatologist.
- (2) Have anesthesia providers on staff with special training or experience in pediatric anesthesia.
- (3) Maintain a full range of pediatric medical subspecialists and pediatric surgical subspecialists at the site.
- (4) Have the subspecialist physicians immediately available to the Level IV neonatal care hospital.
- (5) Have a neonatologist on the premises when an unstable critically ill infant is in the Level IV neonatal care hospital.

d. Nursing personnel. A Level IV neonatal care hospital has the same requirements for nursing personnel as those for a Level II neonatal care hospital.

e. Outreach education. A Level IV neonatal care hospital has the same responsibilities for outreach education as those for a Level III neonatal care hospital.

f. Allied health personnel and services. A Level IV neonatal care hospital has the same level of allied health personnel and services as that of a Level III neonatal care hospital.

g. Infection control. A Level IV neonatal care hospital has the same infection control guidelines as those for a Level I neonatal care hospital.

h. Neonatal safety. A Level IV neonatal care hospital has the same requirements for neonatal safety as those for a Level I neonatal care hospital.

i. Neonatal transport. In addition to meeting the neonatal transport requirements of a Level III neonatal care hospital, a Level IV neonatal care hospital is capable of providing ground and air transportation with crews who have demonstrated competencies in neonatal resuscitation and stabilization.

j. Perinatal care committee. In addition to maintaining a perinatal care committee that meets the same criteria as those for a Level II neonatal care hospital, a Level IV neonatal care hospital maintains a perinatal care committee that has additional representation by surgical specialties. The Level IV neonatal care hospital's perinatal care committee will maintain and analyze data on long-term outcomes to evaluate the effectiveness of the delivery of perinatal health care services.

641—150.9(135) Grant or denial of certificate of verification; and offenses and penalties.

150.9(1) Upon receipt of the levels-of-care assessment tool and the on-site survey results, if required, the department will within 90 days issue its decision to grant or deny the hospital a certificate of verification. The department may deny verification or may give a citation and warning, place on probation, suspend, or revoke existing verification if the department finds reason to believe the hospital's perinatal care program has not been or will not be operated in compliance with these rules. The denial, citation and warning, period of probation, suspension or revocation will be effected and may be appealed in accordance with the requirements of Iowa Code section 17A.12.

150.9(2) All complaints regarding the operation of a participating hospital's perinatal care program shall be reported to the department and to the department of inspections, appeals, and licensing.

150.9(3) Complaints and the investigative process will be treated as confidential to the extent they are protected by Iowa Code sections 22.7 and 135.11(27).

150.9(4) Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

150.9(5) Notice of denial, citation and warning, probation, suspension or revocation will be effected in accordance with the requirements of Iowa Code section 17A.12. Notice to the hospital of denial, citation and warning, probation, suspension or revocation will be served by certified mail, return receipt requested, or by personal service.

150.9(6) Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation must be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. If the request is made within the 20-day time period, the notice to take action will be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation will become the department's final agency action.

150.9(7) Upon receipt of a request for hearing, the request will be forwarded within five working days to the department of inspections, appeals, and licensing pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information, which may be provided by the aggrieved party, shall also be provided to the department of inspections, appeals, and licensing.

150.9(8) The hearing shall be conducted according to the procedural rules of the department of inspections, appeals, and licensing found in 481—Chapter 10.

150.9(9) When the administrative law judge makes a proposed decision and order, it will be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken.

150.9(10) Any appeal to the director for review of the proposed decision and order of the administrative law judge must be filed in writing and mailed to the director by certified mail, return

receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal will also be mailed to the administrative law judge. Any request for an appeal must state the reason for appeal.

150.9(11) Upon receipt of an appeal request, the administrative law judge will prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings on them.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

150.9(12) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and will be delivered by certified mail, return receipt requested, or by personal service.

150.9(13) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

150.9(14) Any petition for judicial review of a decision and order must be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal will be sent to the department by certified mail, return receipt requested, or by personal service.

150.9(15) The party that appeals a final agency action to the district court must pay the cost of the preparation of a transcript of the contested case hearing for the district court.

150.9(16) Final decisions of the department relating to disciplinary proceedings may be transmitted to the department of inspections, appeals, and licensing and to the appropriate professional associations or news media.

641—150.10(135) Prohibited acts. A hospital that imparts or conveys, or causes to be imparted or conveyed, that it is a participating hospital in Iowa's regionalized system of perinatal health care, or that uses any other term, such as a designated level of care, to indicate or imply that the hospital is a participating hospital in the regionalized system of perinatal health care without having obtained a certificate of verification from the department is subject to licensure disciplinary action by the department of inspections, appeals, and licensing, as well as to the application by the director to the district court for a writ of injunction to restrain the use of the term or terms "Level I maternal care or neonatal care hospital," "Level II maternal care or neonatal care hospital," "Level III maternal care or neonatal care hospital" and "Level IV maternal care or neonatal care hospital" in relation to the provision of perinatal health care services.

641—150.11(135) Construction of rules. Nothing in these administrative rules shall be construed to restrict a hospital from providing any services for which it is duly authorized.

These rules are intended to implement Iowa Code section 135.11.

ARC 8517C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to standards for substance abuse treatment and assessment and the OWI law and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 157, “Standards for Substance Abuse Treatment and Assessment Programs and the Operating a Motor Vehicle While Intoxicated (OWI) Law,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 125.7(4).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 125 and 321J.

Purpose and Summary

This proposed rulemaking is a result of Executive Order 10. The purpose of this proposed rulemaking is to ensure that a person charged with an operating while intoxicated (OWI) offense completes a drinking drivers course and undergoes a substance abuse evaluation and/or treatment conducted by a regulated, licensed substance use disorder treatment program.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 21, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 15, 2025
1 to 2 p.m.

Via Microsoft Teams
Meeting ID: 264 876 129 663
Passcode: PMYX8N

January 21, 2025
9 to 10 a.m.

Via Microsoft Teams
Meeting ID: 287 123 907 580
Passcode: hbQXQA

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 157 and adopt the following new chapter in lieu thereof:

CHAPTER 157

STANDARDS FOR SUBSTANCE ABUSE TREATMENT AND ASSESSMENT PROGRAMS AND
THE OPERATING A MOTOR VEHICLE WHILE INTOXICATED (OWI) LAW

641—157.1(125) Definitions. Unless otherwise indicated, the following definitions apply to the specific terms used in these rules:

“Assessment” means the ongoing process of identifying a diagnosis, ruling out other diagnoses, and determining the level of care needed by the client.

“Course for drinking drivers” means an approved course designed to inform the offender about drinking and driving and to encourage the offender to assess the offender's own drinking and driving behavior in order to select practical alternatives. Enrollment in the course is not limited to persons ordered to enroll, attend, and successfully complete the course required under Iowa Code sections 321J.1 and 321J.17. However, any person under the age of 18 who is required to attend the course for violation of Iowa Code section 321J.2 or 321J.17 must attend a course offered by a substance abuse treatment program licensed under Iowa Code chapter 125. Any instructional course for drinking drivers shall be approved by the department of education in consultation with the community colleges and substance abuse treatment programs licensed under Iowa Code chapter 125 and using the course of instruction detailed in rule 281—21.31(321J).

“Evaluation” means the process to evaluate the client's strengths, weaknesses, problems, and needs for the purpose of defining a course of treatment. This includes use of a standardized placement screening and any additional patient/client profile information, and recommendation to an appropriate level of care.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996.

“Licensed” means issuance of a license by the department, which validates the licensee's compliance with substance use disorder treatment program standards and authorizes the licensee to operate a substance use disorder treatment program in the state of Iowa.

“Posttreatment” means continuing care after primary treatment has been completed.

“Primary treatment” means substance use disorder treatment modality, including licensed program services under 641—Chapter 155.

“Program” means any individual, partnership, corporation, association, governmental subdivision or public or private organization.

“Qualifying program” means a program that has a contract with the state of Iowa or the state's contracted managed care entity to provide substance abuse treatment using a sliding fee scale.

“Satisfactory completion of the drinking drivers course” means receiving at the completion of the course a grade from the course instructor of “C” or “2.0,” or better.

“Screening” means the process by which a client/patient is determined at risk and in need of further evaluation. The focus is on the minimum criteria necessary for appropriateness/eligibility.

“Treatment” means the broad range of planned and continuing, inpatient, outpatient, and residential care services, including diagnostic evaluation, counseling, medical, psychiatric, psychological, and social service care, that may be extended to concerned persons, concerned family members, or significant others, and that is geared toward influencing the behavior of such individuals to achieve a state of rehabilitation.

641—157.2(125) Screening, evaluation, treatment, and drinking drivers course. Persons who are charged with operating a motor vehicle while intoxicated (OWI), Iowa Code section 321J.2, and whose driver’s license or nonresident operating privileges are revoked under Iowa Code chapter 321J shall be assigned to undergo a substance abuse evaluation and, if recommended, treatment from a provider licensed by the department under Iowa Code chapter 125.

157.2(1) Screening. The initial screening shall consist of a generally accepted standardized substance abuse screening instrument. The program shall utilize a recognized diagnostic test or tool to determine a “substance use disorder” as those terms are defined in the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association (published 2013, with all changes and updates approved by the American Psychiatric Association through September 2023 incorporated herein). In addition, programs shall collect information on blood alcohol content at time of arrest, history of other alcohol or drug-related arrests, history of alcohol/drug treatment, history of mental health problems and treatment, any OWI arrest that included personal injury or additional charge(s), and family history of substance abuse.

157.2(2) Evaluation. In accordance with the American Society of Addiction Medicine (ASAM) Criteria (as amended to December 31, 2023) and accepted standards of practice, the evaluation shall consist of evaluating a person’s strengths, resources, preferences, limitations, problems and needs; determining the licensed program services needed by the patient; determining the patient’s eligibility for program services; and identifying treatment plan priorities.

157.2(3) Treatment. Treatment shall consist of a broad range of planned and continuing, inpatient, outpatient, and residential care services, including ongoing diagnostic evaluation, counseling, and medical, psychiatric, psychological, and social service care geared toward influencing the behavior of such individuals to achieve a state of rehabilitation. Individuals will be placed in the appropriate level of care at a substance use disorder treatment program licensed by the department under Iowa Code chapter 125 in accordance with ASAM Criteria (as amended to December 31, 2023).

157.2(4) Drinking drivers course. Substance abuse treatment programs licensed by the department under Iowa Code chapter 125 may provide the drinking drivers course if the course curriculum is approved by the department of education under Iowa Code section 321J.22 and rule 281—21.31(321J).

641—157.3(125) Screening, evaluation, treatment, and drinking drivers course completion. The program shall report substance use disorder screening, assessment, evaluation and treatment completion to the department of transportation and to the district court in accordance with Iowa Code sections 125.37, 125.84 and 125.86; the federal confidentiality regulations, “Confidentiality of Alcohol and Drug Abuse Patient Records,” 42 CFR Part 2, effective June 9, 1987; HIPAA (1996); and other relevant provisions of federal and state law. The program shall report satisfactory completion of the drinking drivers course to the department of education in accordance with Iowa Code section 321J.22 and rule 281—21.31(260C); the federal confidentiality regulations, “Confidentiality of Alcohol and Drug Abuse Patient Records,” 42 CFR Part 2, effective June 9, 1987; HIPAA (1996); and other relevant provisions of federal and state law.

157.3(1) Reporting form. Programs shall report screening, evaluation, and treatment completion utilizing the form “Notice Iowa Code 321J—Confidential Medical Record.” Iowa substance abuse

evaluation and treatment providers licensed by the department under Iowa Code chapter 125 shall submit this form online to the department of transportation using the department of transportation's website.

157.3(2) *Primary treatment.* Upon completion of primary treatment, programs shall report to the department of transportation and the courts that treatment has been completed in accordance with Iowa Code section 321J.22; the federal confidentiality regulations, "Confidentiality of Alcohol and Drug Abuse Patient Records," 42 CFR Part 2, effective June 9, 1987; HIPAA (1996); and other relevant provisions of federal and state law.

157.3(3) *Posttreatment results.* If the court orders a posttreatment program, the program shall report progress and attendance to the person's probation officer or otherwise as ordered by the court in accordance with Iowa Code section 321J.22; the federal confidentiality regulations, "Confidentiality of Alcohol and Drug Abuse Patient Records," 42 CFR Part 2, effective June 9, 1987; HIPAA (1996); and other relevant provisions of federal and state law.

157.3(4) *Drinking drivers course.* Substance abuse treatment programs licensed by the department under Iowa Code chapter 125 may provide the drinking drivers course and shall report satisfactory completion of the drinking drivers course to the department of education in accordance with Iowa Code section 321J.22 and rule 281—21.31(260C).

641—157.4(125) Cost of evaluation and treatment.

157.4(1) *Screening and evaluation.* The program shall charge no more than \$125 for the cost of screening and evaluation. The individual or the individual's insurance provider shall be responsible for the costs of the screening and evaluation.

157.4(2) *Treatment.* Qualifying programs shall consider a person admitted to the program pursuant to Iowa Code section 321J.3 who does not possess sufficient income or estate to make payment of the costs of the treatment in whole or in part to be a state patient and eligible for state-funded treatment as provided in Iowa Code section 125.44. Qualifying programs shall utilize a sliding fee schedule approved by the department to determine cost of treatment. There is no prohibition on any individual from paying in whole the cost of treatment.

157.4(3) *Reimbursement.* Programs shall be able to seek reimbursement of the cost of screening, evaluation and treatment from an individual's insurance company, firm or corporation bound to pay, or from Medicaid for an individual who is eligible or enrolled in Medicaid.

641—157.5(125) Timeliness. The program shall conduct and complete substance abuse evaluations and treatment at the program's earliest convenience.

641—157.6(125) Confidentiality. Programs will abide by the standards for patient records set forth in rule 641—155.21(125,135).

641—157.7(125) Records. Programs shall maintain records in accordance with 641—subrule 155.21(10).

641—157.8(125) Reciprocity. For a resident of a state other than Iowa or an Iowa resident obtaining evaluation or treatment outside the state, screening, evaluation or treatment services shall be provided by programs licensed or approved by that state's substance abuse authority. Programs shall submit the results of the screening, evaluation and treatment to the department for review and reporting purposes to the department of transportation.

These rules are intended to implement Iowa Code section 125.13.

ARC 8509C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to regions for substance abuse prevention and treatment
and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 158, “Regions for Substance Abuse Prevention and Treatment,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 125.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 125.7.

Purpose and Summary

This chapter was reviewed and is proposed to be rescinded as part of the Red Tape Review process laid out by Executive Order 10. The intended purpose of this chapter is to establish Department authority for implementing substance use disorder treatment programs by dividing the state into regions and establishing standards for the development of the programs for each region, which will be addressed in the upcoming behavioral health overhaul approved by the Legislature in 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 7, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Joe Campos
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: compliancerules@hhs.iowa.gov

Public Hearing

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

January 14, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 281 130 323 441 Passcode: XDpFQ2
January 17, 2025 9 to 10 a.m.	Microsoft Teams Meeting ID: 254 845 374 808 Passcode: hPYxD2

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 158.**

ARC 8475C

RACING AND GAMING COMMISSION[491]**Notice of Intended Action****Proposing rulemaking related to sports wagering and fantasy sports contests
and providing an opportunity for public comment**

The Racing and Gaming Commission hereby proposes to amend Chapter 13, "Sports Wagering," and Chapter 14, "Fantasy Sports Contests," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 99E.3 and 99F.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 99E and 99F.

Purpose and Summary

Item 1 enhances licensee requirements for messaging to applicants/customers with regard to underage wagering and account sharing.

Item 2 clarifies licensee requirements by removing the requirement to utilize a list in determining prohibited players, which effectively reverts the rule to language that was present prior to recent rulemaking.

Item 3 resolves issues and concerns with a previously delayed rulemaking process.

Item 4 resolves issues and concerns with a previously delayed rulemaking process.

Item 5 resolves issues and concerns with a previously delayed rulemaking process.

Item 6 clarifies requirements for geolocation testing and auditing.

Item 7 resolves issues and concerns with a previously delayed rulemaking process.

Item 8 clarifies licensee requirements by removing the requirement to utilize a list in determining prohibited players, which effectively reverts the rule to language that was present prior to recent rulemaking.

Item 9 clarifies licensee requirements for account verification at registration.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024. A public hearing was held on the following date(s):

- November 6, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Commission no later than 4:30 p.m. on December 31, 2024. Comments should be directed to:

Barb Blake
Iowa Racing and Gaming Commission
1300 Des Moines Street
Des Moines, Iowa 50309
Email: barb.blake@iowa.gov

Public Hearing

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

January 2, 2025
9 a.m.

Commission Office
6200 Park Avenue, Suite 100
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind subrule 13.2(4) and adopt the following **new** subrule in lieu thereof:

13.2(4) Public notice.

a. The public shall have access to the sports wagering rules, available wagers, odds or payouts, the payout period, and the source of the information used to determine the outcome of a sports wager. All licensees and advance deposit sports wagering operators shall require participants to follow the rules of play. The sports wagering rules shall be:

- (1) Displayed in the licensee's sports wagering area.
- (2) Posted on the Internet site or mobile application used to conduct advance deposit sports wagering.
- (3) Included in any terms and conditions disclosure statements of the advance deposit sports wagering system.

b. During account registration and each time the user logs in, advance deposit sports wagering operators shall display the following information on any interface that accepts wagers:

- (1) Account sharing is prohibited.
- (2) Persons under the age of 21 are prohibited from wagering.
- (3) Any other disclosures, as required by the administrator.

ITEM 2. Rescind paragraphs 13.2(7)"a", 13.2(7)"b" and 13.2(7)"d" and adopt the following **new** paragraphs in lieu thereof:

a. To prohibit wagering by coaches, athletic trainers, officials, players, or other individuals who participate and persons employed in a position with direct involvement with coaches, athletic trainers, officials, players or other individuals who participate in an authorized sporting event in which wagers may be accepted.

b. To identify and suspend accounts opened by individuals on behalf of persons under the age of 21.

d. To promptly report to the commission, in a format approved by the administrator, any abnormal wagering activity or patterns that may indicate a concern about the integrity of an authorized sporting event or events, and any other conduct with the potential to corrupt a wagering outcome of an authorized sporting event for purposes of financial gain, including but not limited to match fixing, and suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, account sharing, or use of false identification. Integrity-monitoring procedures shall also provide for the sharing of information with other licensees, other governing authorities, and accredited sports governing entities by participating in an integrity-monitoring association or group or by another method as approved by the administrator.

ITEM 3. Rescind subrule 13.5(2) and adopt the following **new** subrule in lieu thereof:

13.5(2) Account registration. A person must have an established account in order to place advance deposit sports wagers. The process for establishing an account is subject to the administrator's approval. An account may be established through on-site registration under procedures previously approved by the administrator or through remote registration. To establish an account, an application for an account shall be signed or otherwise authorized in a manner approved by the administrator and shall include the applicant's full legal name, principal residential address, date of birth, last four digits of the social security number, and any other information required by the administrator. The account registration process shall also include:

a. Age verification to prevent persons under the legal age for sports wagering from establishing an account.

b. An applicant verification process that includes an exact match of the following:

- (1) Date of birth, including month, date and year of birth.
- (2) The last four digits of the social security number.

- (3) Last name.
- c. An applicant verification process that permits a flexible match by allowing the following:
 - (1) First name may include nicknames and abbreviations.
 - (2) Address may include abbreviations.
- d. Authentication of identification by:
 - (1) Answering knowledge-based questions based on the applicant's public or private data; or
 - (2) Verifying that device ID and phone number match the applicant's publicly known data; or
 - (3) Comparing of valid government-issued ID to applicant's picture taken at time of account registration; or
 - (4) Another method as approved by the administrator.
- e. Verification that the player applicant is not on the statewide self-exclusion list set forth in Iowa Code section 99F.4(22) prior to establishing an account.
- f. Availability and acceptance of a set of terms and conditions that is also readily accessible to the player before and after registration and noticed when updated. Notices shall include, at a minimum, the following:
 - (1) Explanation of rules in which any unrecoverable malfunctions of hardware/software are addressed including, but not limited to, if the unrecoverable malfunction, wagering event cancellation, or other catastrophic malfunction results in the voiding of any wagers.
 - (2) Procedures to deal with interruptions caused by the suspension of data flow from the network server during an event.
 - (3) Specifications advising players to keep their account credentials secure.
 - (4) Statement that no underage individuals are permitted to participate in wagering.
 - (5) Explanation of conditions under which an account is declared inactive and actions undertaken on the account once this declaration is made.
- g. Availability and acceptance of a privacy policy that is also readily accessible to the player before and after registration and noticed when updated and that includes, at a minimum, the following:
 - (1) Statement of information that is collected, the purpose for information collection, and the conditions under which information may be disclosed.
 - (2) Statement that any information obtained in respect to player registration or account establishment must be done in compliance with the privacy policy.
 - (3) Requirement that any information about player accounts which is not subject to disclosure pursuant to the privacy policy must be kept confidential, except where the release of that information is required by law.
 - (4) Requirement that all player information must be securely erased from hard disks, magnetic tapes, solid state memory, and other devices before the device is properly disposed of by the licensee. If erasure is not possible, the storage device must be destroyed.
- h. If an advance deposit sports wagering operator has an agreement with more than one licensee, the advance deposit sports wagering operator shall submit an agreement to the administrator that indicates the manner in which customer net receipts shall be assigned with its licensee partners. The agreement shall include all partnering licensees and their respective qualified sponsoring organizations, and the net receipts shall be allocated using one of the following methods:
 - (1) Make available an option for new remotely registered customers to select the licensee at which net receipts are assigned.
 - (2) Allocate new remotely registered customer net receipts to the licensee which is located nearest to the customer's principal residential address.
 - (3) Distribute all customer receipts evenly between all licensees for which an agreement exists.
 - (4) An alternative allocation agreement that complies with local, state and federal law. The agreement shall be made available for public inspection.

ITEM 4. Rescind paragraphs **13.5(3)“b”** and **13.5(3)“e”** and adopt the following **new** paragraphs in lieu thereof:

- b. Location detection procedures to reasonably detect and dynamically monitor the location of a player attempting to place any wager or perform other account activities as identified by the advance

deposit sports wagering operator or licensee, related to an Iowa authorized account. Account activity-based location detection controls shall be informed by industry best practices and any commission guidelines for the detection of fraud or other unauthorized or illegal activity. The advance deposit sports wagering operator or licensee shall utilize and monitor geolocation activity to detect potential fraudulent and suspicious activity, which shall be reported in accordance with paragraph 13.2(7)“d.” A player outside the permitted boundary attempting to make a wager shall be rejected, and the player shall be notified. The confidence radius shall be entirely located within the permitted boundary.

e. Authentication for login using a multifactor authentication process or other secure alternative means as authorized by the commission. After successful login, multifactor authentication will need to be performed at least every 14 days for each unique device. Processes for retrieving lost usernames and passwords shall be available, secure, and clearly disclosed to the player. Players shall be allowed to change their passwords.

ITEM 5. Rescind subrule 13.5(7) and adopt the following **new** subrule in lieu thereof:

13.5(7) *Expiration or termination of an Iowa Code section 99F.7A operating agreement.* In the event an advance deposit sports wagering operating agreement between a licensee under Iowa Code section 99F.7A and another entity expires, terminates, or is no longer valid, notice of termination must be given to the commission and all customers affiliated with the licensee. A customer shall be given an opportunity to close an account. If the advance deposit sports wagering operator has an operating agreement with other licensees in the state of Iowa, the customer shall have the option to select another partner licensee to which their net receipts shall be assigned, or the customer's net receipts shall be assigned to any remaining partner licensees in accordance with an agreement submitted to the administrator pursuant to paragraph 13.5(2)“h.”

ITEM 6. Rescind paragraphs **13.6(3)“b”** and **13.6(3)“c”** and adopt the following **new** paragraphs in lieu thereof:

b. A geolocation system and integrity test shall be performed annually on the advance deposit wagering system.

(1) The testing organization must be independent of the licensee and the licensed geolocation vendor and shall be qualified by the administrator.

(2) The geolocation test shall be completed and the results submitted no later than March 31 of each year.

(3) Geolocation testing shall review existing licensee procedures for detecting and reporting fraudulent activity associated with any account activity detected by the geolocation system.

c. At the discretion of the administrator, additional assessments or specific testing criteria may be required.

ITEM 7. Rescind subrule 14.7(2) and adopt the following **new** subrule in lieu thereof:

14.7(2) Customer verification.

a. A customer verification process shall include an exact match of the following:

(1) Date of birth, including month, date and year of birth.

(2) The last four digits of the social security number.

(3) Last name.

b. A customer verification process shall permit a flexible match by allowing the following:

(1) First name may include nicknames and abbreviations.

(2) Address may include abbreviations.

c. A customer verification process shall authenticate identification by the following:

(1) Answering knowledge-based questions based on the applicant's public or private data; or

(2) Verifying that device ID and phone number match the applicant's publicly known data; or

(3) Comparing a valid government-issued ID to a photo of the applicant taken at the time of account registration; or

(4) Another method as approved by the administrator.

ITEM 8. Rescind paragraph **14.8(1)“c”** and adopt the following **new** paragraph in lieu thereof:

c. Restriction of entries from coaches, officials, athletes, contestants, or other individuals who participate in a game or contest that is the subject of an Internet fantasy sports contest in which the outcome is determined, in whole or in part, by the accumulated statistical results of a team of individuals in the game or contest in which they participate.

ITEM 9. Rescind paragraph **14.8(5)“h”** and adopt the following **new** paragraph in lieu thereof:

h. During account registration and each time the user logs in, fantasy sports contest service providers shall display the following information on any interface that accepts fantasy sports contest entries:

- (1) Account sharing is prohibited.
- (2) Persons under the age of 21 are prohibited from entering fantasy sports contests.
- (3) Any other disclosures, as required by the administrator.

REVENUE DEPARTMENT

Notice of Electric and Natural Gas Delivery Tax Rates and Municipal Electric and Natural Gas Transfer Replacement Tax Rates for Each Competitive Service Area

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2024 by each taxpayer to determine the tax due for each taxpayer in the 2025-2026 fiscal year.

2024 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3226	Akron Municipal Utilities	0.00005016
3201	Algona Municipal Utilities	0.00025144
3205	Alta Municipal Power Plant	0.00008290
3069	Alta Vista Municipal Utilities	0.00000000
3070	Alton Municipal Light & Power	0.00000000
3207	Ames Municipal Electric System	0.00000094
3071	Anita Municipal Utilities	0.00000000
3227	Anthon Municipal Electric Utility	0.00010389
3209	Atlantic Municipal Utilities	0.00015621
3073	Auburn Municipal Utility	0.00000000
3074	Aurelia Mun. Electric Utility	0.00007365
3211	Bancroft Municipal Utilities	0.00090449
3213	Bellevue Municipal Utilities	0.00007880
3228	Bigelow Municipal Electric Utility	0.00037563
3229	Bloomfield Municipal Electric Utility	0.00003607
3075	Breda Mun. Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00132929
3216	Buffalo Municipal Electric System	0.00000225
3217	Burt Municipal Electric Utility	0.00000203

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3077	Callender Electric	0.00000000
3078	Carlisle Municipal Utilities	0.00000000
3079	Cascade Municipal Utilities	0.00139918
3221	Cedar Falls Municipal Elec. Utility	0.00026902
3068	City of Afton	0.00000000
3072	City of Aplington	0.00000000
3082	City of Dike	0.00000000
3088	City of Estherville	0.00000000
3089	City of Fairbank	0.00000000
3090	City of Farnhamville	0.00000000
3230	City of Fredericksburg	0.00000764
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00000000
3108	City of Lehigh	0.00000000
3113	City of Marathon	0.00000000
3311	City of Pella	0.00007414
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00000000
3139	City of Westfield	0.00000000
3143	City of Woolstock	0.00000000
3236	Coggon Municipal Light Plant	0.00004374
3237	Coon Rapids Municipal Utilities	0.00011278
3242	Corning Municipal Utilities	0.00031761
3080	Corwith Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00000384
3081	Dayton Light & Power	0.00000000
3244	Denison Municipal Utilities	0.00001027
3245	Denver Municipal Electric Utility	0.00005928
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.00000000
3085	Earlville Municipal Utilities	0.00137177
3087	Ellsworth Municipal Utilities	0.00000000
3091	Fonda Municipal Electric	0.00000000
3252	Fontanelle Municipal Utilities	0.00033407
3092	Forest City Municipal Utilities	0.00000000
3231	Glidden Municipal Electric Utility	0.00000214
3093	Gowrie Municipal Utilities	0.00148389
3256	Graettinger Municipal Light Plant	0.00028010
3094	Grafton Municipal Utilities	0.00000000
3258	Grand Junction Municipal Utilities	0.00000542
3095	Greenfield Municipal Utilities	0.00106593
3096	Grundy Center Light & Power	0.00022173
3232	Guttenberg Municipal Electric	0.00002873
3263	Harlan Municipal Utilities	0.00139596
3097	Hartley Municipal Utilities	0.00000000
3098	Hawarden Municipal Utility	0.00000000
3099	Hinton Municipal Electric/Water	0.00007183
3267	Hopkinton Municipal Utilities	0.00000717

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3100	Hudson Municipal Utilities	0.00000000
3101	Independence Light & Power	0.00000000
3271	Indianola Municipal Utilities	0.00000742
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	0.00000000
3104	Lake Mills Municipal Utilities	0.00000000
3105	Lake Park Municipal Utilities	0.00000000
3233	Lake View Municipal Utilities	0.00015764
3274	Lamoni Municipal Utilities	0.00140260
3276	LaPorte City Utilities	0.00000998
3277	Laurens Municipal Utilities	0.00029015
3109	Lenox Mun. Light & Power	0.00052072
3110	Livermore Municipal Utilities	0.00000000
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00011543
3112	Manning Municipal Electric	0.00025217
3284	Mapleton Municipal Utilities	0.00008732
3285	Maquoketa Municipal Electric	0.00004721
3288	McGregor Municipal Utilities	0.00000738
3291	Milford Municipal Utilities	0.00018034
3114	Montezuma Municipal Light & Power	0.00000000
3115	Mount Pleasant Municipal Utilities	0.00000000
3293	Muscatine Municipal Utilities	0.00009555
3116	Neola Light & Water System	0.00000000
3297	New Hampton Municipal Light Plant	0.00009487
3298	New London Municipal Utility	0.00052973
3304	Ogden Municipal Utilities	0.00006019
3234	Onawa Municipal Utilities	0.00009815
3117	Orange City Municipal Utilities	0.00000000
3118	Orient Municipal Utilities	0.00000000
3307	Osage Municipal Utilities	0.00004946
3309	Panora Municipal Electric Utility	0.00006300
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.00000000
3121	Pocahontas Municipal Utilities	0.00000000
3122	Preston Municipal Utilities	0.00000000
3315	Primghar Municipal Light Plant	0.00001643
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	0.00000000
3318	Rock Rapids Municipal Utilities	0.00000479
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	0.00000000
3128	Sanborn Municipal Light Plant	0.00000000
3130	Shelby Municipal Utilities	0.00000000
3131	Sibley Municipal Utilities	0.00000000
3321	Sioux Center Municipal Utilities	0.00000087
3323	Southern Minnesota Mun. Power	0.00000000
3324	Spencer Municipal Utilities	0.00012945

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3132	Stanhope Municipal Utilities	0.00000000
3360	Stanton Municipal Utilities	0.00000000
3326	State Center Municipal Light Plant	0.00027766
3327	Story City Municipal Electric Utility	0.00010916
3134	Stratford Municipal Utilities	0.00000000
3135	Strawberry Point Electric Utility	0.00000000
3136	Stuart Municipal Utilities	0.00121418
3328	Sumner Municipal Light Plant	0.00020357
3330	Tipton Municipal Utilities	0.00143611
3332	Traer Municipal Utilities	0.00057746
3337	Villisca Municipal Power Plant	0.00022186
3137	Vinton Municipal Utilities	0.00000000
3138	Wall Lake Municipal Utilities	0.00000000
3338	Waverly Light & Power	0.00072786
3342	Webster City Municipal Utilities	0.00042187
3345	West Bend Municipal Power Plant	0.00082391
3346	West Liberty Municipal Electric Util.	0.00000626
3347	West Point Municipal Utility System	0.00012407
3140	Whittemore Municipal Utilities	0.00000000
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	0.00133211
3142	Woodbine Municipal Utilities	0.00000000

CO. #	IOUs — ELECTRIC	DELIVERY TAX RATE
7206	Amana Society Service Co.	0.00069176
7248	Eldridge Electric & Water Utilities	0.00054889
7354	Geneseo Municipal Utilities	0.00000000
7270	IES Utilities	0.00237888
7272	Interstate Power	0.00103630
7289	MidAmerican Energy	0.00242982
7296	Nebraska Public Power District	0.00000000
7302	Northwestern Corporation	0.00000000
7305	Omaha Public Power District	0.00123835
7334	Union Electric	0.00000000

CO. #	RECs	DELIVERY TAX RATE
4319	Access Energy Coop	0.00052554
4203	Allamakee Clayton Electric Coop	0.00093586
4208	Atchison-Holt Electric Coop	0.00085628
4214	Boone Valley Electric Coop	0.00092333
4218	Butler County REC	0.00062434
4219	Calhoun County Electric Coop	0.00109354
4220	Cass Electric Coop	0.00004596
4224	Central Iowa Power Coop	0.00000000
4225	Chariton Valley Electric Coop	0.00102029

CO. #	RECs	DELIVERY TAX RATE
4235	Clarke Electric Coop	0.00234795
4287	Consumers Energy	0.00111082
4240	Corn Belt Power Coop	0.00000000
4246	East-Central Iowa REC	0.00193233
4247	Eastern Iowa Light & Power	0.00068026
4250	Farmers Electric Coop - Greenfield	0.00258206
4249	Farmers Electric Coop - Kalona	0.00047680
4251	Federated Rural Electric	0.00032433
4253	Franklin Rural Electric Coop	0.00075138
4254	Freeborn-Mower Cooperative	0.00225371
4255	Glidden Rural Electric Coop	0.00072443
4259	Grundy County REC	0.00057184
4260	Grundy Electric Cooperative	0.00052083
4261	Guthrie County REC	0.00121604
4262	Hancock Co. REC	0.00097751
4265	Harrison County REC	0.00059147
4266	Hawkeye REC	0.00051726
4223	Heartland Power Coop	0.00033885
4268	Humboldt County REC	0.00096090
4273	Iowa Lakes Electric Coop	0.00068661
4279	Linn County REC	0.00133993
4280	Lyon Rural Electric Coop	0.00046140
4286	Maquoketa Valley Electric Coop	0.00221262
4290	Midland Power Cooperative	0.00094536
4299	Nishnabotna Valley REC	0.00059726
4300	North West Rural Electric Coop	0.00034671
4301	Northwest Iowa Power Coop	0.00000000
4308	Osceola Electric Coop	0.00023659
4310	Pella Cooperative Electric	0.00182080
4313	Pleasant Hill Community Line	0.00024271
4316	Rideta Electric Coop	0.00263826
4320	Sac County Rural Electric Coop	0.00064621
4322	Southern Iowa Electric Coop	0.00134566
4379	Southwest Iowa Service Coop	0.00302207
4329	T.I.P. Rural Electric Coop	0.00203782
4333	Tri-County Electric Coop	0.00081969
4336	United Electric Coop	0.00123613
4348	Western Iowa Power Coop	0.00108160
4352	Woodbury County REC	0.00097884
4353	Wright County REC	0.00040495

2024 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5021	Bedford Municipal Gas	0.00000000
5215	Brighton Gas	0.00673745
5023	Brooklyn Municipal Gas	0.00000000

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.00000000
5022	City of Bloomfield	0.00000000
5026	City of Clearfield	0.00000000
5028	City of Everly	0.00000000
5029	City of Fairbank	0.00000000
5238	Coon Rapids Municipal Gas	0.00004662
5241	Corning Municipal Gas	0.00000765
5027	Emmetsburg Municipal Gas	0.00000000
5030	Gilmore City Municipal Gas	0.00000000
5031	Graettinger Municipal Gas	0.00000000
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.00000000
5034	Hartley Municipal Gas	0.00000000
5035	Hawarden Municipal Gas	0.00000000
5036	Lake Park Municipal Gas	0.00000000
5275	Lamoni Municipal Gas	0.00079773
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.00050209
5283	Manning Municipal Gas	0.00011037
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.00000000
5306	Osage Municipal Gas	0.00002474
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	0.00000000
5317	Rock Rapids Municipal Gas	0.00012575
5056	Rolfe Municipal Gas	0.00000000
5057	Sabula Municipal Gas	0.00000000
5058	Sac City Municipal Gas	0.00000000
5059	Sanborn Municipal Gas	0.00000000
5060	Sioux Center Municipal Gas	0.00000000
5061	Tipton Municipal Gas	0.00000000
5063	Waukee Municipal Gas	0.00000000
5340	Wayland Municipal Gas	0.00019619
5064	Wellman Municipal Gas	0.00000000
5344	West Bend Municipal Gas	0.00003088
5065	Whittemore Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00087469
5066	Woodbine Gas	0.00000000

CO. #	IOUs — GAS	DELIVERY TAX RATE
5204	Allerton Gas	0.03191638

CO. #	IOUs — GAS	DELIVERY TAX RATE
5270	IES Utilities-Gas	0.00677129
5272	Interstate Power-Gas	0.00250175
5289	MidAmerican Energy-Gas	0.00641133
5312	Peoples Natural Gas	0.00640722
5335	United Cities Gas	0.00501690

2024 MUNICIPAL ELECTRIC TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
3226	Akron Municipal Utilities	0.01797321
3201	Algona Municipal Utilities	*
3205	Alta Municipal Power Plant	0.00300728
3069	Alta Vista Municipal Utilities	*
3070	Alton Municipal Light & Power	*
3207	Ames Municipal Electric System	*
3071	Anita Municipal Utilities	0.00408285
3227	Anthon Municipal Electric Utility	0.00000000
3209	Atlantic Municipal Utilities	0.00231019
3073	Auburn Municipal Utility	0.00631694
3074	Aurelia Municipal Electric Utility	*
3211	Bancroft Municipal Utilities	*
3213	Bellevue Municipal Utilities	0.02314321
3228	Bigelow Municipal Utilities	*
3229	Bloomfield Municipal Electric Utility	0.03142167
3075	Breda Municipal Electric System	*
3076	Brooklyn Municipal Utilities	*
3216	Buffalo Municipal Electric System	0.00000000
3217	Burt Municipal Electric Utility	*
3077	Callender Electric	0.00000000
3078	Carlisle Municipal Utilities	*
3079	Cascade Municipal Utilities	0.00000000
3221	Cedar Falls Mun. Electric Utility	*
3068	City of Afton	0.00069799
3072	City of Aplington	*
3082	City of Dike	*
3088	City of Estherville	0.02180774
3089	City of Fairbank	0.00106459
3090	City of Farnhamville	*
3230	City of Fredericksburg	*
3106	City of Larchwood	*
3107	City of Lawler	0.00000000
3108	City of Lehigh	*
3113	City of Marathon	*
3311	City of Pella	0.00445407
3125	City of Renwick	*
3129	City of Sergeant Bluff	*
3139	City of Westfield	*

CO. #	COMPANY	REPLACEMENT TAX RATE
3143	City of Woolstock	*
3236	Coggon Municipal Light Plant	*
3237	Coon Rapids Municipal Utilities	*
3242	Corning Municipal Utilities	0.00000000
3080	Corwith Municipal Utilities	0.01594361
3243	Danville Municipal Electric Utility	*
3081	Dayton Light & Power	0.00292998
3244	Denison Municipal Utilities	0.00186354
3245	Denver Municipal Electric Utility	0.00000000
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.02437709
3085	Earlville Municipal Utilities	*
3086	Eldridge Electric & Water Utility	0.00000000
3087	Ellsworth Municipal Utilities	*
3091	Fonda Municipal Electric	*
3252	Fontanelle Municipal Utilities	0.00000000
3092	Forest City Municipal Utilities	*
3231	Glidden Municipal Electric Utility	0.00702111
3093	Gowrie Municipal Utilities	*
3256	Graettinger Municipal Light Plant	*
3094	Grafton Municipal Utilities	0.02902382
3258	Grand Junction Municipal Utilities	0.00266658
3095	Greenfield Municipal Utilities	*
3096	Grundy Center Light & Power	*
3232	Guttenberg Municipal Electric	0.01074488
3263	Harlan Municipal Utilities	*
3097	Hartley Municipal Utilities	0.02469099
3098	Hawarden Municipal Utility	*
3099	Hinton Municipal Electric/Water	*
3267	Hopkinton Municipal Utilities	*
3100	Hudson Municipal Utilities	*
3101	Independence Light & Power	0.00212837
3271	Indianola Municipal Utilities	0.00660352
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	*
3104	Lake Mills Municipal Utilities	0.00865535
3105	Lake Park Municipal Utilities	0.00480928
3233	Lake View Municipal Utilities	*
3274	Lamoni Municipal Utilities	0.00268465
3276	LaPorte City Utilities	0.00235550
3277	Laurens Municipal Utilities	0.00325554
3109	Lenox Municipal Light & Power	0.00000000
3110	Livermore Municipal Utilities	*
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	*
3112	Manning Municipal Electric	*
3284	Mapleton Municipal Utilities	0.00440142
3285	Maquoketa Municipal Electric	*

CO. #	COMPANY	REPLACEMENT TAX RATE
3288	McGregor Municipal Utilities	0.00185653
3291	Milford Municipal Utilities	0.00000000
3114	Montezuma Municipal Light & Power	0.00058135
3115	Mount Pleasant Municipal Utilities	0.00144125
3293	Muscatine Municipal Utilities	0.00000000
3116	Neola Light & Water System	*
3297	New Hampton Municipal Light Plant	0.00000000
3298	New London Municipal Utility	*
3304	Ogden Municipal Utilities	0.00249565
3234	Onawa Municipal Utilities	0.00484916
3117	Orange City Municipal Utilities	*
3118	Orient Municipal Utilities	*
3307	Osage Municipal Utilities	*
3309	Panora Municipal Electric Utility	*
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.00000000
3121	Pocahontas Municipal Utilities	0.00468776
3122	Preston Municipal Utilities	*
3315	Primghar Municipal Light Plant	*
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	*
3318	Rock Rapids Municipal Utilities	0.00429847
3126	Rockford Municipal Light Plant	*
3127	Sabula Municipal Utilities	0.00000000
3128	Sanborn Municipal Light Plant	*
3130	Shelby Municipal Utilities	*
3131	Sibley Municipal Utilities	*
3321	Sioux Center Municipal Utilities	0.00441763
3324	Spencer Municipal Utilities	0.00462071
3132	Stanhope Municipal Utilities	*
3360	Stanton Municipal Utilities	0.00473277
3326	State Center Municipal Light Plant	0.00456548
3327	Story City Municipal Electric Utility	*
3134	Stratford Municipal Utilities	0.01858855
3135	Strawberry Point Electric Utility	*
3136	Stuart Municipal Utilities	0.00383750
3328	Sumner Municipal Light Plant	0.00207589
3330	Tipton Municipal Utilities	0.02454470
3332	Traer Municipal Utilities	*
3337	Villisca Municipal Power Plant	0.00000000
3137	Vinton Municipal Utilities	0.00216154
3138	Wall Lake Municipal Utilities	*
3338	Waverly Utilities	0.00558382
3342	Webster City Municipal Utilities	*
3345	West Bend Municipal Power Plant	0.00227900
3346	West Liberty Municipal Electric Util.	*
3347	West Point Municipal Utility System	*
3140	Whittemore Municipal Utilities	*

CO. #	COMPANY	REPLACEMENT TAX RATE
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	*
3142	Woodbine Municipal Utilities	0.00294320
3143	Woolstock Municipal Utilities	*

*No rate provided to the Department by the Municipal

2024 MUNICIPAL NATURAL GAS TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
5401	Alton Municipal Gas	0.00232090
5021	Bedford Municipal Gas	0.05037462
5215	Brighton Gas	*
5023	Brooklyn Municipal Gas	*
5024	Cascade Municipal Gas	*
5025	Cedar Falls Municipal Gas	*
5022	City of Bloomfield	0.00018692
5026	City of Clearfield	*
5028	City of Everly	*
5029	City of Fairbank	*
5238	Coon Rapids Municipal Gas	*
5241	Corning Municipal Gas	*
5027	Emmetsburg Municipal Gas	*
5030	Gilmore City Municipal Gas	*
5031	Graettinger Municipal Gas	0.00054247
5032	Guthrie Center Municipal Gas	*
5033	Harlan Municipal Gas	*
5034	Hartley Municipal Gas	0.06922777
5035	Hawarden Municipal Gas	*
5036	Lake Park Municipal Gas	0.00913154
5275	Lamoni Municipal Gas	0.02432416
5037	Lenox Municipal Gas	*
5038	Lineville City Natural Gas	*
5039	Lorimor Municipal Gas	*
5281	Manilla Municipal Gas	*
5283	Manning Municipal Gas	*
5402	Mapleton Municipal Gas	0.00000000
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	*
5042	Moulton Municipal Gas	*
5369	Orange City Municipal Gas	*
5306	Osage Municipal Gas	*
5043	Prescott Municipal Gas	*
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	*
5317	Rock Rapids Municipal Gas	0.01015109
5056	Rolfe Municipal Gas	*
5057	Sabula Municipal Gas	3.43353228

CO. #	COMPANY	REPLACEMENT TAX RATE
5058	Sac City Municipal Gas	*
5059	Sanborn Municipal Gas	*
5060	Sioux Center Municipal Gas	0.00807835
5061	Tipton Municipal Gas	0.07326640
5067	Wall Lake Municipal Gas	*
5063	Waukee Municipal Gas	*
5340	Wayland Municipal Gas	0.02956044
5064	Wellman Municipal Gas	*
5344	West Bend Municipal Gas	0.04337195
5065	Whittemore Municipal Gas	*
5349	Winfield Municipal Gas	0.00000000
5066	Woodbine Gas	*

*No rate provided to the Department by the Municipal

Notice of Rate-Regulated Water Utilities Delivery Tax Rate

Pursuant to the authority of Iowa Code section 437B.3, the Director of Revenue hereby gives notice of the rate-regulated water utility delivery tax rate. This rate will be used in conjunction with the total gallons of water delivered to consumers in calendar year 2024 by each taxpayer to determine replacement taxes payable in the 2025-2026 fiscal year.

2024 RATE-REGULATED WATER UTILITIES DELIVERY TAX RATE BY SERVICE AREA

CO. #	RATE-REGULATED WATER	DELIVERY TAX RATE
6020	Iowa American Water	0.00057387

ARC 8486C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to procurement of equipment, materials, supplies and services and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 20, “Procurement of Equipment, Materials, Supplies and Services,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 8A.302(1) and 307.12(1)“j.”

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8A.302(1), 8A.311(20), 8A.514(3), 73.15 through 73.21, 307.12(1)“j” and 307.21.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 20 in compliance with Executive Order 10. Proposed Chapter 20 establishes the procedure for the procurement of equipment, materials, supplies and services. The process requires competitive procurement with public advertising at a set threshold and defines exceptions.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 11, 2024

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 7, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 7, 2025 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 427 298 056
January 7, 2025 2 to 2:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 325 178 868

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 20 and adopt the following new chapter in lieu thereof:

CHAPTER 20
PROCUREMENT OF EQUIPMENT, MATERIALS, SUPPLIES AND SERVICES

761—20.1(307) General.

20.1(1) Scope. This chapter pertains only to the procurement of equipment, materials, supplies and services by the Iowa department of transportation with funds from the department's operating budget or from the materials and equipment revolving fund established in Iowa Code section 307.47 or other program funds authorized for department use.

20.1(2) Applicability. Rules 761—20.4(307) through 761—20.6(307) apply to professional and technical services procured using the general purchasing process where contracts are awarded competitively, and cost is a factor. Rule 761—20.9(307) applies to professional and technical services contracts that are awarded based on qualifications when the cost is negotiated after the vendor is selected.

20.1(3) Contact information. Questions regarding this chapter may be directed to the Resources and Acquisitions Bureau, Purchasing Section, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.239.1170.

761—20.2(307) Definitions. As used in this chapter, unless the context otherwise specifies:

"Bidder" means a respondent to a solicitation as a bidder, offeror or contractor.

"Competition" means the efforts of three or more parties acting independently to secure a contract with the department to provide equipment, materials, supplies or services to the department by offering or being in a position to offer the most favorable terms. "Favorable terms" includes, but is not limited to: price, speed of execution, anticipated quality of the product to be provided judged according to the expertise and experience of the provider, or ability to produce a desired result or to provide a desired commodity.

"Firm" means any bona fide contracting entity, including individuals, public mitigation banks and educational institutions. Except for educational institutions, the term is not to include governmental agencies or political subdivisions.

"Methods of procurement" means formal solicitation, informal solicitation, or negotiation as follows:

1. *"Formal solicitation"* means procurement by competition through public advertising of bid documents stating departmental needs.
2. *"Informal solicitation"* means procurement by obtaining a sufficient number of quotations, bids or proposals from qualified sources.
3. *"Negotiation"* means any method of procurement other than formal solicitation or informal solicitation to seek the best and final offer that is most advantageous to the department.

"Professional and technical services" means services that are unique, technical, or infrequent functions performed by independent contractors whose occupation is the rendering of such services. Contracts may go to partnerships, firms, or corporations as procured through formal and informal solicitation or negotiation methods outlined in rules 761—20.3(307) through 761—20.6(307). Architectural, landscape architectural, surveying, general engineering consultant, construction

inspection, or engineering services and other related professional and technical services are outlined in rule 761—20.9(307).

“Response” means the submittal of written documents by a prospective bidder, offeror or contractor as a response to any type of solicitation issued by the department for a quotation, bid or proposal.

“Solicitation” means the request by the department for a quotation, bid or proposal. This includes but is not limited to the complete assembly of related documents (whether attached or incorporated by reference) furnished to prospective bidders for the purpose of responding to a solicitation.

761—20.3(307) Procurement policy. It is the policy of the department to procure equipment, materials, supplies and services in a way that is most advantageous to the department and competitive to the maximum practicable extent.

20.3(1) Formal solicitation. The formal solicitation method of procurement is to be used whenever feasible and practicable under the existing conditions and circumstances and the estimated, aggregate amount of the purchase equals or exceeds \$50,000.

20.3(2) Informal solicitation. The informal solicitation method of procurement may be used if formal solicitation is not feasible or practicable, or the estimated, aggregate amount of purchase is less than \$50,000. This method is to be used as deemed necessary to ensure that the procurement is fair to the department, considering the administrative costs of the procurement, and is to be consistent with the nature and needs of the particular procurement so that the procurement is competitive to the maximum practicable extent.

20.3(3) Negotiation. The negotiation method of procurement may be used if formal solicitation or informal solicitation is not feasible or practicable, or in any of the following instances:

- a. Procurement by negotiation is determined to be necessary and in the public interest during a period of man-made or natural disaster or emergency.
- b. The estimated, aggregate amount of the purchase is less than \$15,000.
- c. The procurement is for architectural, landscape architectural, engineering, or related professional and technical services.
- d. The procurement is for other professional and technical services.
- e. When cost is only one of many factors considered to determine the award.
- f. The procurement is for services to be rendered by an educational institution.
- g. It is impracticable to secure competition through formal solicitation or informal solicitation, such as when:

(1) Equipment, materials, supplies or services can be obtained from only one source, pursuant to rule 761—20.7(307).

(2) Competition is precluded because of the existence of patent rights, copyrights, secret processes, control of basic raw materials, or similar circumstances, pursuant to rule 761—20.7(307).

(3) Solicitations have been made available to prospective bidders and no responses to the solicitation have been received.

(4) Solicitations have been made available and the submitted responses do not cover the quantity needed. In this case, negotiation is permitted for the remaining quantity needed.

(5) The procurement is for electrical power or energy, natural or manufactured gas, water or other utility services, or the procurement is for construction of a part of a utility system or railroad and it would not be practicable to allow a contractor other than the utility or railroad company to perform the work.

(6) The procurement is for professional and technical services in connection with the assembly, installation or servicing (or the instruction of personnel therein) of equipment of a highly technical or specialized nature.

(7) The procurement involves maintenance, repair, alteration or inspection, and the exact nature or amount of work to be done is not known.

(8) The procurement is for commercial transportation.

(9) It is impossible to draft adequate specifications or any other adequately detailed description of the item or services to be procured.

(10) The procurement is for a part or component being procured as a replacement in support of equipment specially designed by the manufacturer, and the data available is not adequate to ensure that the part or component supplied by another manufacturer will perform the same function as the part or component it is to replace.

(11) The procurement involves construction where a contractor or group of contractors is already at work on the site, and either it would not be practicable to allow another contractor or an additional contractor to work on the same site or the amount of work involved is too small to interest other contractors to mobilize and demobilize.

h. The procurement is for experimental, developmental or research work or for the manufacture or furnishing of property for experimentation, development, research or testing.

i. It is determined that the responses received are not reasonable or have not been independently arrived at.

j. Procurement by negotiation is otherwise authorized by law including but not limited to Iowa Code section 73.19.

k. The manufacturer is willing to sell directly to the state at distributor cost.

761—20.4(307) Formal solicitation procedures.

20.4(1) *Bidders list.* The department's purchasing section will maintain current bidders lists by commodity classification.

a. These lists are generated from the department's electronic sourcing platform and will be actively managed to stay current with the relevant industry players and accurate commodity classifications to secure competition to the maximum practicable extent. Solicitations will be posted on the Iowa economic development authority's targeted small business website no later than 48 hours prior to the issuance of the solicitation.

b. Any firm legally doing business in Iowa may be placed on an appropriate bidders list or lists by registering as a vendor on the department's electronic sourcing platform.

c. Subject to concurrence of legal counsel, a bidder's name may be removed from a bidders list or lists for any of the following reasons:

(1) When the bidder has failed to meet prequalification as set forth in the bid solicitation.

(2) When the bidder has failed to meet the performance standards of a previous procurement.

(3) When the bidder has attempted to improperly influence the decision of any state employee involved in the procurement process.

(4) When there are reasonable grounds to believe that there is a collusive effort by bidders to restrain competition by any means.

(5) Where there is a determination by the civil rights commission that the bidder conducts discriminatory employment practices.

d. A bidder may protest removal from a bidders list or lists by submitting the appeal in writing pursuant to instructions in paragraph 20.4(6) "*d.*"

20.4(2) *Solicitation documents.* The department will prepare the solicitation documents complete with requirements, specifications and instructions, as applicable, to be publicly posted for the purpose of procuring goods or services.

a. In special situations (e.g., the procurement of new model equipment), the solicitation may be marked "preliminary" and sent to prospective bidders requesting their review of the solicitation to determine their ability to respond and meet the requirements of the procurement request. The "preliminary" solicitation process involves the following steps:

(1) A conference may be held to discuss the "preliminary" solicitation requirements with prospective bidders when the item in question is a new acquisition for the department.

(2) Written requests for variations, deviations or approved equal substitutions to the solicitation are to be accepted, evaluated and answered by the department.

(3) The solicitation requirements may be revised to incorporate approved changes.

(4) A final solicitation is to be sent to prospective bidders that participated in the preliminary process.

b. The solicitation is to be sent to a sufficient number of prospective bidders so as to promote adequate competition commensurate with the dollar value and nature of the procurement. The solicitation is to be furnished to others upon request.

c. The department will publicize the procurement by advertising in appropriate media, providing the date and time set for public opening of submitted responses, a general description of the item to be procured, and the name and address of the person to contact to obtain a copy of the solicitation.

20.4(3) Response instructions. Each bidder is to prepare the response to the solicitation in the manner prescribed and furnish all information and samples requested in the solicitation. All bidders are to adhere to the following when preparing and submitting responses:

a. *Response preparation.* Responses are to be submitted electronically in a secure authorized system as instructed in the solicitation. Telephonic, written, email or facsimile responses are not to be considered.

b. *Information to be provided by bidder.* In the space provided, the bidder is to denote brand name, manufacturer's name, model number and any other necessary information to assist in identifying each item the bidder proposes to supply.

c. *New merchandise.* Unless otherwise specified, all items offered are to be new, of the latest model or manufacture, and at least equal in quality to that specified.

d. *Response price.* Where requested, the unit and total price for each separate item, and the total price for all items, is to be provided in the bidder's response. Alternate prices for approved substitutions may be submitted by attaching a response marked as an alternate to the original response. In case of error, the unit price prevails. If unit price is not requested in the solicitation, the total price per item prevails.

e. *Discounts.* Bidders are to quote net discount price. No other discounts are to be considered in making the award.

f. *Time of acceptance.* The bidder is to hold the offered prices open for action by the department at least 30 days past the time set for public opening of submitted responses.

g. *Escalator clauses.* Unless specifically provided for in the solicitation, a response containing an escalator clause is not to be considered.

h. *Federal and state taxes.* Except for specific items that will be noted in the solicitation, the department is exempt from payment of federal and state taxes. These taxes are not to be included in the bidder's response. Exemption certificates are to be furnished to bidders upon request.

i. *Delivery dates.* In the space provided, the bidder is to show the earliest date on which delivery can be made. When the solicitation shows the acceptable delivery date for an item, the proposed delivery date may be used as a factor in determining the successful bidder.

j. *Ties and reservations.* No ties or reservations by the bidder are permitted. Any tie or reservation stipulated by the bidder shall be sufficient grounds to reject the submitted response.

k. *Changes and additions.* No changes in or additions to the solicitation are to be permitted unless a written request for a change or an addition is submitted to the department's purchasing section in sufficient time to allow an appropriate analysis and response to all bidders, and the change or addition is approved by the purchasing section. The purchasing section will notify all bidders of approved changes or additions by means of addenda. Any unauthorized change in or addition to the solicitation is to be sufficient grounds to reject the submitted response.

l. *Response submission.* All responses are to be submitted electronically prior to the time set for public opening of submitted responses. Responses received are to be dated and time-stamped electronically by the purchasing section showing the date and hour received. By submitting a response, the bidder:

(1) Agrees that the contents of the response will become part of the contract if the bidder receives the award.

(2) Certifies that the bidder has become familiar with the contents and requirements of the solicitation.

m. Bid bond. A bid bond may be necessary as security that the bidder will execute the contract if awarded. If necessary, each response is to be supported by a bid bond in the form and amount prescribed in the solicitation. Responses not so supported are not to be read.

n. Withdrawal of responses prior to opening. Responses may be withdrawn prior to the time set forth in the solicitation. Prior to opening, a bidder who withdraws the response to a solicitation may submit a new response if desired.

o. Modification or withdrawal of responses after opening. After opening, no response is to be modified. A response may be withdrawn after opening only if:

(1) The bidder submits, at least three days prior to award, a sworn statement asserting that the response contains a substantial inadvertent error and that the bidder would suffer a serious financial loss if the bidder were to perform under the response, and

(2) The purchasing director approves the withdrawal. The purchasing director may base the decision to approve or deny the withdrawal on any factors the purchasing director deems relevant, including but not limited to the best interests of the agency, possible prejudice to other bidders or the bidding process, and the extent of financial hardship on the bidder if withdrawal is not allowed.

20.4(4) Public opening of responses. Responses are to be opened publicly and read aloud at the time stipulated in the solicitation.

20.4(5) Consideration of responses. The department reserves the right to accept or reject any or all responses. Individual responses may be rejected for any of the following reasons:

- a.* Noncompliance with the requirements of this rule or of the solicitation.
- b.* Financial insolvency of the bidder.
- c.* Evidence of unfair bidding practices.
- d.* For any other reason stated in this rule.

20.4(6) Recommendation of award.

a. Time frame. Unless otherwise specified by the department in the solicitation, an award is to be made within 30 days after the date and time set for public opening of submitted responses if it is in the best interest of the state. If an award is not made within the applicable time frame, the procurement is to be canceled unless an extension of time is mutually agreed to by the department and the apparent successful bidder.

b. Tied responses. Responses that are equal in all respects and are tied in price are to be resolved among the tied bidders by giving first preference to an Iowa bidder and second preference to the bidder who satisfactorily performed a contract the previous year for the same item at the same location. If the tie involves bidders with equal standing, the award is to be determined by lot among these bidders. A tied bidder or the bidder's representative may witness the determination by lot.

c. Tabulation of responses. A tabulation of responses with an award recommendation is to be sent to all interested parties including bidders at least ten days prior to award.

d. Protests. Any protest of the recommended award is to be submitted in writing to: Director of the Purchasing Section, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. A written protest must be received by the director of purchasing within five days after the recommended award has been posted. The protest is to be considered by the authority making the award. This is not a contested case as defined in Iowa Code section 17A.2.

e. Return of bid bond. Unsuccessful bidders' bid bonds shall be promptly returned by the department after award is made. The bid bond of the successful bidder shall be returned in accordance with subrule 20.4(7).

20.4(7) Contract execution and performance.

a. Execution. The successful bidder is to make good effort to enter into (execute) a formal contract with the department within 14 days after award.

b. Performance bond and certificate of insurance. A performance bond or certificate of liability and property damage insurance, or both, may be needed for those contracts involving services or specially constructed equipment. If needed, the performance bond and certificate of insurance are to be filed with the department promptly after award and prior to contract execution.

c. Return of awarded bidder's bid bond. The bid bond of the successful bidder is to be returned following execution of the contract. However, if the successful bidder fails to execute the contract and file an acceptable performance bond and certificate of insurance (if needed) promptly after award and prior to contract execution, or fails to comply with Iowa Code chapter 490, the award may be annulled and the bid bond forfeited.

d. Assignment of contract. The contractor is not to assign the contract to another party without written authorization from the department's purchasing section.

e. Strikes, lockouts or acts of God. If the contractor's business or source of supply has been disrupted by a strike, lockout or act of God, the contractor is to promptly advise the department's purchasing section. The department may elect to cancel the contract without penalty to either the contractor or to the department.

f. Payment. Unless otherwise stated in the contract, payment terms shall be net following the department's receipt and acceptance of the item(s) procured and receipt of an original invoice, in accordance with Iowa Code section 8A.514(3).

g. Liquidated damages. The contract terms may provide for liquidated damages to be assessed if the contractor fails to complete the contract within the contract period or for any other reason as specified in the contract.

20.4(8) Additional requirements.

a. The department's standard specifications for highway and bridge construction, as available on the department's website at www.iowadot.gov, where applicable and not in conflict with this rule or with the needs of a particular procurement, shall apply to formal solicitation procurement activities.

b. If there are federal funds involved in a particular procurement, and the federal procurement regulations conflict with this rule, then the federal procurement regulations shall apply.

c. Procurement of motor vehicles is to be in accordance with Iowa Code section 8A.311(20).

761—20.5(307) Informal solicitation procedures.

20.5(1) Bidders lists. The department will use its current bidders lists (more information can be found in subrule 20.4(1)) to the extent feasible and practicable. However, the solicitation will also be offered to any qualified bidder that has requested an opportunity to participate.

20.5(2) Form of solicitation. The solicitation is to be as detailed and complete as practicable for the time and resources available.

20.5(3) Form of response. Responses are to be submitted in writing or electronically when practicable. Written responses will prevail over oral responses in case of discrepancies, disputes or errors. Following is the order of preference:

- a.* Original, signed submitted response.
- b.* Electronically submitted response (facsimile, email, Internet).
- c.* Oral response (e.g., telephonic).

20.5(4) Award. The award is to be offered to that responsible bidder whose response meets the requirements of the solicitation and is the most advantageous to the department. An Iowa bidder will be given preference over an out-of-state bidder when responses are equal in all respects and are tied in price.

761—20.6(307) Professional and technical services. This rule applies to professional and technical services procured through the purchasing section using formal solicitation, informal solicitation or negotiation methods outlined in rules 761—20.3(307) through 761—20.6(307). The purchasing section will use the request for proposal (RFP) process, excluding cost evaluation, to ensure qualification-based selection for architectural, landscape architectural, and engineering services. Professional and technical services procured by the project management bureau are covered by rule 761—20.9(307).

20.6(1) RFP. A solicitation prepared by the department will include at least the minimum needs for the type of goods or services sought. The solicitation is sent to prospective offerors and is publicly posted on the department's website.

20.6(2) *Evaluation committee.* A committee is established for the purpose of reviewing and evaluating proposed responses based on a set of criteria as outlined in the RFP. “Evaluation criteria” will define categories with assigned weighted values to be used as a scoring measure to determine the best overall solution for the department based on technical expertise and price, including but not limited to:

- a. Overall content of written submitted proposal information.
- b. Business knowledge.
- c. Work experience in mandatory skill sets.
- d. Presentation or demonstration.
- e. Cost (will not be used for the selection of architectural, landscape architectural, or engineering services).

20.6(3) *Award.* The award is to be offered to a firm whose properly submitted compliant response best meets the needs of the solicitation and receives the highest overall score of the weighted criteria.

761—20.7(307) Sole source or emergency selection. Sole source or emergency selection applies to all services, including professional and technical services. The department will fully document and include in the contract file the justification for use of sole source or emergency selection, the basis on which a particular firm is selected and that appropriate approvals were obtained.

20.7(1) *Sole source selection.* The department may select a single firm qualified to perform the work with which to negotiate when one of the following conditions exists:

- a. Only a single firm is determined qualified or eligible to perform the contemplated services or is eminently more likely to most satisfactorily complete the work than another firm.
- b. The services involve work that is of such a specialized character or nature, or related to a specific geographical location, that only a single firm, by virtue of experience, expertise, proximity to or familiarity with the project or ownership of intellectual property rights, could most satisfactorily complete the work.

20.7(2) *Emergency selection.* The department may select a single firm qualified to perform the work when there is an emergency that will not permit the time necessary to use normal selection procedures. An emergency includes, but is not limited to, one of the following:

- a. A condition that threatens the public health, welfare or safety.
- b. A need to protect the health, welfare or safety of persons occupying or visiting a public improvement or property located adjacent to the public improvement.
- c. A situation in which the department must act to preserve critical services or programs.

761—20.8(307) Conflicts with federal requirements. If any provision of this chapter would cause a denial of federal funds or services or would otherwise be inconsistent with federal law, federal law shall be adhered to, but only to the extent necessary to prevent denial of the federal funds or services or to eliminate the inconsistency with federal law.

761—20.9(307) Negotiation—architectural, landscape architectural, engineering and related professional and technical services. This rule prescribes procedures followed by the project management bureau for the procurement of architectural, landscape architectural, surveying, general engineering consultant, construction inspection, engineering and related professional and technical services by negotiation where selection is based on qualifications in compliance with 23 CFR Part 172. Contract costs are negotiated after a qualification-based selection.

20.9(1) *Registration of firms providing professional and technical services.*

a. A firm wishing to provide professional and technical services to the department as a consultant may register to receive information through the GovDelivery portal available at the department’s website at www.iowadot.gov. The firm is responsible for keeping the firm’s information updated. For information, persons may contact the consultant coordinator at the Project Management Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or by telephone at 515.239.1803.

b. The department will maintain a list of work categories, descriptions and requirements for each work category online.

20.9(2) *Request for professional and technical services.* Prior to selecting a firm with which to initiate negotiations under this rule, the department will document the need for outside services, a description of the needed services, the time frame within which the work must be performed, and the method of selection to be used. One of the following methods is to be used to select a firm with which to initiate negotiations:

- a. Complete process. More information can be found in subrule 20.9(3).
- b. Small contract process. More information can be found in subrule 20.9(4).
- c. Sole source or emergency selection. More information can be found in rule 761—20.7(307).

20.9(3) *Complete process.* The complete process method will use the following process and will be used unless another selection method is justified:

a. *RFP.* The department will prepare an RFP that will include the scope of the work, duration of the contract, list of applicable work categories, evaluation criteria (excluding cost), any established disadvantaged business enterprise or targeted small business goal for the proposed work, type of contract anticipated, submission details including the point of contact for the RFP for any questions, the time by which the RFP should be received by the department and anticipated date of selection. The RFP will not request any cost information to be submitted by the proposing firms.

b. *Website.*

(1) The RFP will be posted on the department of administrative services' website no later than 48 hours prior to the issuance of the RFP.

(2) The RFP will be posted on the department's website. The notification of the RFP being posted will be sent to all users who have signed up to receive the notification via GovDelivery. The notification will include the link to the website where the RFP is posted. More information can be found in subrule 20.9(1).

(3) The department will post any questions received on the RFP and answers thereto on the website indicated in the GovDelivery notification.

c. *Selection committee.* The department will appoint a selection committee to become familiar with the RFP, review the firms that have responded to the RFP to determine if they meet the requirements of the work to be performed, and evaluate the firms that meet the qualifications per the evaluation criteria. The selection committee will, if necessary, interview the firms, score the firms, document the committee's decision and provide the scoring to the consultant steering committee.

d. *Evaluation criteria.* The selection committee is responsible for establishing criteria for evaluating each firm submitting a proposal, assigning weighted values to the criteria, and rating each firm on each criterion. Evaluation criteria are tailored to the needed services. Typical evaluation criteria are listed below. The list is intended as a guideline only; it is not exhaustive, nor is each criterion mandatory.

- (1) Staffing expertise consistent with special project needs.
- (2) Past experience with similar types of work.
- (3) Current workload and commitment of key personnel.
- (4) Specific qualifications of key staff who will be forming the firm's project team.
- (5) Resources the firm has available and proposes to use on the project, including the firm's use of equipment and automated technology and the firm's compatibility with equipment and technology used by the department.

(6) Identification of proposed subconsultants and the work the subconsultants will perform.

e. *Consultant steering committee.* A consultant steering committee is responsible for reviewing the firms as scored by the selection committee, determining the order of preference for negotiations, and documenting its decision. The number of firms selected is to include at least two alternate firms. The committee is to document its reasoning when the number of selected firms is fewer than the minimum. The consultant steering committee is to consider not only the selection committee's scoring but other factors such as:

- (1) A firm's ability to complete required tasks in the time allotted, taking into account other work currently under contract.
- (2) The volume of work a firm has with the department, both existing and potential.

(3) The department's goal of having a breadth of experienced firms capable of providing quality services to the department.

(4) Other items unique to the particular contract.

f. Completion of selection process. After selection committee and consultant steering committee activities are complete, the department will determine whether negotiations may begin. If negotiations are approved, the department will proceed to negotiate with the firm that is first in order of preference.

g. Notification to firms. The department will post the results of the selection on the website identified in the GovDelivery notification. For firms not included on the ranked list of firms, the department will also provide a matrix showing the high, low and average scores for each item evaluated and that firm's score for each item.

20.9(4) *Small contract process.* The small contract process may be used to identify a single firm with which to negotiate when the estimated work under the contract can normally be completed within a 12-month period and the estimated cost of the contract will not exceed \$150,000.

a. Selection committee. The department will appoint a selection committee to identify at least three firms that meet the requirements of the work categories involved in performing the work; document the names of the firms considered, if necessary; interview the firms; select a firm with which to initiate negotiations; and document the committee's decision.

b. Completion of selection process. After selection committee activities are complete, the department will determine whether negotiations may begin. If negotiations are approved, the department will proceed to negotiate with the selected firm.

20.9(5) *Selection dispute resolution.* Any dispute of the recommended selection is to be submitted in writing to the consultant coordinator. A written notice of the dispute with supporting evidence must be received by the consultant coordinator within 15 calendar days from the date the selection is posted on the department's website. This is not a contested case as defined in Iowa Code section 17A.2. The department will inform the selected firm(s) of the dispute and inform the firm(s) that the department reserves the right to proceed with negotiations with the selected firm(s) pending resolution of the dispute or claim.

20.9(6) *Negotiation of contract.* The purpose of negotiations is to develop a contract that is mutually satisfactory to the department and the selected firm.

a. The firm must submit a detailed cost proposal, including a detailed cost proposal for each proposed subcontract. The department will prepare an independent estimate of the cost of the proposed services, including a detailed estimate of the firm's staff hours needed to complete the contract. Significant differences are to be evaluated and resolved to the satisfaction of both parties. If it is impractical to make an independent estimate, the department will evaluate the acceptability of the firm's cost proposal on the basis of the reasonableness of the individual elements of the price proposed.

b. The department may perform a preaudit. A preaudit typically includes:

(1) An analysis of the firm's cost proposal and financial records for the method of accounting in place to ensure that the firm has the ability to adequately segregate and accumulate reasonable and allowable costs to be charged against the contract.

(2) An analysis of the firm's proposed direct costing rates and indirect overhead factors to ensure the firm's propriety and allowability.

c. For contracts with federal funding, the department will verify federal suspension and debarment actions and eligibility status of firms prior to entering into an agreement or contract.

20.9(7) *Unsuccessful negotiations.*

a. If a mutually satisfactory contract cannot be negotiated, the department will formally terminate the negotiations and notify the firm in writing. Termination of negotiations is without prejudice and at the department's discretion. The substance of terminated negotiations is confidential.

b. The department will then initiate negotiations with the firm given next preference, and this procedure may be continued until a mutually satisfactory contract has been negotiated. If a satisfactory contract cannot be negotiated with any of the selected firms, the department will either:

(1) Direct the selection committee to select one or more firms with which to continue negotiations, or

(2) Redefine the scope of the project or work and start over. More information can be found in subrule 20.9(2). Once negotiations are terminated, negotiations cannot be reopened with the same firm.

20.9(8) *Evaluation of performance.*

a. The department will evaluate all firms under this rule annually based on the contracts that were active during the fiscal year. Both the firm's performance and quality of the final product shall be evaluated. The evaluation considers:

- (1) The quality and adequacy of work performed.
- (2) The ability to meet established schedules and budgets.
- (3) General administration of the contract, including substantiation of cost billings, payments to subconsultants, and documentation of claims.
- (4) Cooperation shown by the firm in responding to requests for information and in revising procedures and products according to directions.
- (5) Coordination exhibited by the firm in communicating with the department, subconsultants, agencies and others to accomplish tasks and resolve problems.
- (6) Ingenuity displayed in solving unique and unusual design problems encountered during performance of contract objectives.
- (7) The ability to obtain an acceptable end product with appropriate department staff guidance.

b. The firm is to be given an opportunity to review, comment on and sign the evaluation.

These rules are intended to implement Iowa Code sections 8A.302(1), 8A.311(20), 8A.514(3), 73.15 through 73.21, 307.12(1) "j" and 307.21.

ARC 8483C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rulemaking related to competition with private enterprise
and providing an opportunity for public comment**

The Transportation Department hereby proposes to rescind Chapter 25, "Competition with Private Enterprise," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 23A.2 and 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 23A.1 and 23A.2.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 25 in compliance with Executive Order 10. Proposed Chapter 25 defines exemptions from Iowa Code section 23A.2(1). The intended benefit is cost savings to the Department by allowing competition with private enterprise in some circumstances.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 11, 2024

The Department received no comments.

Fiscal Impact

The Department is unable to determine the fiscal impact of this rulemaking due to lack of historical data and an unpredictable market. However, the Department believes the impact will be positive.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 7, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 7, 2025 11 to 11:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 762 953 536
January 7, 2025 3 to 3:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 626 928 674

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 25 and adopt the following new chapter in lieu thereof:

CHAPTER 25
COMPETITION WITH PRIVATE ENTERPRISE

761—25.1(23A) Interpretation. This chapter is not to be interpreted to mean that the department will provide a good or service with or without qualification, restriction, or charge.

761—25.2(23A) Exemptions. Activities related to the items listed in this rule are exempted from the provisions of Iowa Code section 23A.2(1).

25.2(1) Transportation-related printing, publications and electronically generated materials, including but not limited to: forms; brochures; booklets; manuals; directories; periodicals; county, city and state transportation maps; video and audio materials; computer tapes and discs; microfilm and other instructional and informative materials.

25.2(2) Copies of records or other services provided to meet the standards of Iowa Code chapter 22.

25.2(3) Transportation-related studies, planning and research.

25.2(4) Disposal of surplus, obsolete or junked materials and supplies and equipment.

25.2(5) Matters of intergovernmental cooperation. Cooperating with other government bodies does not involve providing goods or services to the public except in the broadest sense. The term “government bodies” includes regional transit systems. Activities that involve intergovernmental cooperation include but are not limited to the following:

a. Use or consumption of departmental facilities, equipment, materials or supplies by other government bodies, including loans, rentals and sales of equipment, materials and supplies.

b. Services provided to or performed for other government bodies. These services include:

(1) Vehicle maintenance and repair services provided to other state agencies.

(2) Purchasing services provided to other government bodies.

(3) Purchases made by other government bodies through state contracts.

(4) Disposal of surplus, obsolete or junked materials and supplies and equipment belonging to other state agencies, counties or cities.

(5) Other services performed for government bodies. These services cover a wide range of activities and are performed primarily for county and city highway departments, agencies having park or institutional roads, county treasurers, public transit systems, publicly owned airports, law enforcement agencies, regional planning agencies, and transportation-related boards.

25.2(6) Acquisition and disposal of land and improvements or mitigation banks acquired for highways or facilities use.

25.2(7) Lease of right-of-way.

25.2(8) Design, construction, reconstruction, inspection and maintenance of highways, including but not limited to signs erected in the right-of-way and acknowledgment signs used in the adopt-a-highway program.

25.2(9) Use or consumption of specialized departmental equipment, materials, supplies or services to complete a contract with the department if the goods or services are not readily available on the open market and the department can provide the goods or services at a competitive price.

25.2(10) Use of departmental facilities to complete a contract with the department.

25.2(11) Activities related to emergencies, including but not limited to providing assistance to the public.

25.2(12) Goods or services for use or consumption by the department.

25.2(13) Use of departmental facilities or services by persons providing services to or representing departmental employees, including but not limited to the following services or persons: food, credit union and employee organizations.

25.2(14) Use of departmental conference rooms or grounds by civic groups and nonprofit organizations.

25.2(15) Personal protective items purchased by departmental employees through state contracts.

25.2(16) Goods or services promoting transportation or transportation safety.

25.2(17) Development, implementation, and licensing of software for use by governmental agencies, whether in Iowa or elsewhere, designed for crash data reporting and analysis; generating

uniform citations and other forms for use in public safety; and transmission of such data, analysis, and forms to the appropriate agencies.

25.2(18) Development, implementation, and licensing of systems for use by governmental agencies, whether in Iowa or elsewhere, designed for situational incident response, resource management, and interagency communications.

25.2(19) Any other activity permitted or required by law.

These rules are intended to implement Iowa Code sections 23A.1 and 23A.2.

ARC 8482C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to secondary road fund distribution methodology and providing an opportunity for public comment

The Transportation Department hereby proposes to adopt a new Chapter 103, “Secondary Road Fund Distribution Methodology,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)“j” and 312.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 7E.3(3) as amended by 2024 Iowa Acts, Senate File 2385, section 69; 312.2; 312.3 as amended by 2024 Iowa Acts, Senate File 2385, section 303; 312.3B as amended by 2024 Iowa Acts, Senate File 2385, section 304; 312.5 as amended by 2024 Iowa Acts, Senate File 2385, section 305; and 312.16 as amended by 2024 Iowa Acts, Senate File 2385, section 306.

Purpose and Summary

This rulemaking proposes to adopt new Chapter 103 in accordance with 2024 Iowa Acts, Senate File 2385. Proposed Chapter 103 sets forth requirements for the adoption of the formulas to be used for distribution of moneys in the Secondary Road Fund and the Farm-to-Market Road Fund and to formalize the process by which the Transportation Commission (Commission) will administer its duties.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 24, 2024

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 6, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 6, 2025
10 to 10:30 a.m.

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 242 813 366

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 761—Chapter 103:

CHAPTER 103

SECONDARY ROAD FUND DISTRIBUTION METHODOLOGY

761—103.1(312) General.

103.1(1) Purpose. The purpose of these rules is to adopt the formulas to be used for distribution of moneys in the secondary road fund and the farm-to-market road fund and to formalize the process by which the commission will administer its duties in accordance with Iowa Code section 312.3 as amended by 2024 Iowa Acts, Senate File 2385, section 303.

103.1(2) Contact information. Questions regarding this chapter may be directed to the Systems Planning Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone, 515.239.1664.

103.1(3) Definitions. As used in this chapter:

“Bridges” means those structures under the jurisdiction of a county secondary roads department that are included in the National Bridge Inventory System.

“Commission” means the same as defined in Iowa Code section 312.16 as amended by 2024 Iowa Acts, Senate File 2385, section 306.

“Committee” means an ad hoc committee as described in rule 761—103.2(7E,312).

“Daily vehicle miles of travel” means the product of a road segment’s length, in miles, multiplied by the daily traffic count thereon, in vehicles per day, reported for that segment by department, based on the most recent counts available.

“Earth surfaced” means roads under the jurisdiction of a county secondary roads department that are not surfaced.

“Formula” means the appropriate secondary road fund distribution formula or farm-to-market road fund distribution formula as described in subrules 103.3(1) and 103.3(2).

“Granular surfaced” means roads under the jurisdiction of a county secondary roads department that have crushed rock, gravel, or oiled earth surfaces.

“Paved surfaced” means roads under the jurisdiction of a county secondary roads department with hot mix asphalt, Portland cement concrete, or stabilized base with waterproof surfacing.

“Rural population” means the count, taken from the most recently certified decennial federal census, of persons who reside in the unincorporated areas of a county.

761—103.2(7E,312) Composition and membership of the ad hoc secondary road fund distribution committee.

103.2(1) The committee is composed of six county engineers, six county supervisors, two representatives of the department, and the executive director of the Iowa county engineers association service bureau.

103.2(2) The county engineers are appointed by the president of the Iowa county engineers association, the county supervisors are appointed by the president of the Iowa state association of county supervisors, and the department representatives are appointed by the department.

103.2(3) The county engineer members and the county supervisor members are selected according to the population of their counties, as follows:

- a. Two county engineers and two county supervisors from large counties.
- b. Two county engineers and two county supervisors from medium counties.
- c. Two county engineers and two county supervisors from small counties.

103.2(4) To the extent possible, the committee is geographically diverse, and no county will have both an engineer and a supervisor as members simultaneously.

103.2(5) All county members are voting members. The department representatives and the executive director of the Iowa county engineers association service bureau are nonvoting members.

103.2(6) The committee selects from its membership a chair and a vice-chair. The vice-chair presides at a meeting in the absence of the chair.

761—103.3(312) Formulas.

103.3(1) *Formula for determining secondary road fund allocation factors.* The Iowa county engineers association service bureau annually computes percentage allocation factors for the allocation of secondary road fund revenues among the counties by using the methodology determined by the commission and calculating and summing the following percentage subtotals for each county:

- a. Thirty percent times the ratio that the total area of each county bears to the total area of the state.
- b. Ten percent times the ratio that the rural population of each county bears to the total rural population of the state.
- c. Twelve and one-half percent times the ratio that the total daily vehicle miles of travel on each county’s secondary roads bear to the total daily vehicle miles of travel on all secondary roads in the state.
- d. One-half percent times the ratio that the earth-surfaced miles of secondary roads of each county bear to the total miles of earth-surfaced secondary roads in the state.

e. Twenty percent times the ratio that the granular-surfaced miles of secondary roads of each county bear to the total miles of granular-surfaced secondary roads in the state.

f. Thirteen percent times the ratio that the paved-surfaced miles of secondary roads of each county bear to the total miles of paved-surfaced secondary roads in the state.

g. Fourteen percent times the ratio that the length, in lineal feet, of secondary road bridges of each county bears to the total length of secondary road bridges in the state.

103.3(2) *Formula for determining farm-to-market road fund allocation factors.* The Iowa county engineers association service bureau annually computes percentage allocation factors for the allocation of farm-to-market road fund revenues among the counties by using the methodology determined by the commission and calculating and summing the following percentage subtotals for each county:

a. Thirty percent times the ratio that the total area of each county bears to the total area of the state.

b. Fifteen percent times the ratio that the rural population of each county bears to the total rural population of the state.

c. Ten percent times the ratio that the total daily vehicle miles of travel on each county's farm-to-market roads bear to the total daily vehicle miles of travel on all farm-to-market roads in the state.

d. Nine percent times the ratio that the granular-surfaced miles of farm-to-market roads of each county bear to the total miles of granular-surfaced farm-to-market roads in the state.

e. Twenty-three percent times the ratio that the paved-surfaced miles of farm-to-market roads of each county bear to the total miles of paved-surfaced farm-to-market roads in the state.

f. Thirteen percent times the ratio that the length, in lineal feet, of farm-to-market road bridges of each county bears to the total length of farm-to-market road bridges in the state.

103.3(3) *Considerations for a new or modified distribution formula.* A distribution formula that is proposed in accordance with rule 761—103.4(312) should substantially meet the following objectives:

a. Funding levels to counties should be relatively stable, with only small changes occurring from year to year.

b. The formula should be able to factor in changes in population, mileages, the centerline lineal feet of bridges, and traffic levels as they occur over time, without needing to be revised.

761—103.4(312) Process for approval of a new or modified distribution formula.

103.4(1) Proposals to adopt a new or modified distribution formula may be initiated by the executive board of either the Iowa county engineers association or the Iowa state association of county supervisors upon request to the commission.

103.4(2) When a formula change has been initiated or requested, the commission directs the committee to develop a work plan and set up a work schedule.

103.4(3) The committee is to evaluate the proposal and, within 18 months after initiation or receipt of the proposal, publish an official report outlining the committee's findings and recommendations.

103.4(4) If the official report recommends adoption of a new or modified distribution formula, the chair communicates the details of the committee's recommendations to all county engineers, all county supervisors and the department in such a manner as the committee deems appropriate. This communication solicits comments on the committee's recommendations.

103.4(5) After receipt and consideration of comments from counties, the committee may adopt a resolution that formally proposes a distribution formula and places it into official consideration.

103.4(6) The chair forwards the resolution to the executive boards of both the Iowa county engineers association and the Iowa state association of county supervisors, with a request for endorsement of the proposed distribution formula.

103.4(7) If both executive boards endorse the proposed distribution formula, the chair requests each individual county to consider and adopt a resolution in favor of or in opposition to the proposed distribution formula.

103.4(8) If at least 66 counties adopt resolutions in favor of the proposed distribution formula, the chair forwards the distribution formula to the commission for action.

103.4(9) If the distribution formula is adopted by the commission, the committee chair notifies the following organizations and groups when the distribution formula has been approved:

- a. The executive board of the Iowa county engineers association.
- b. The executive board of the Iowa state association of county supervisors.
- c. The systems planning and local systems bureaus of the department.
- d. The office of the treasurer of state.
- e. All county engineers and county supervisors.
- f. The Iowa county engineers association service bureau.

761—103.5(312) Judicial review. Any county that is aggrieved or adversely affected by a decision of the commission may seek judicial review of such agency action under the provisions of Iowa Code section 17A.19.

761—103.6(312) Severability clause. If any section, provision, or part of these rules is adjudged invalid or unconstitutional, such adjudication shall not affect the validity of these rules as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

These rules are intended to implement Iowa Code sections 7E.3(3) as amended by 2024 Iowa Acts, Senate File 2385, section 69; 312.2; 312.3 as amended by 2024 Iowa Acts, Senate File 2385, section 303; 312.3B as amended by 2024 Iowa Acts, Senate File 2385, section 304; 312.5 as amended by 2024 Iowa Acts, Senate File 2385, section 305; and 312.16 as amended by 2024 Iowa Acts, Senate File 2385, section 306.

ARC 8467C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to signing for Iowa medal of honor highway and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 131, “Signing on Primary Highways,” and to adopt a new Chapter 131, “Signing for Iowa Medal of Honor Highway,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)“j” and 314.31.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 314.31.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 131 in compliance with Executive Order 10. Proposed Chapter 131 lays out uniform requirements, responsibilities, and procedures for requesting the installation of Medal of Honor signs on U.S. Route 20 across Iowa. The purpose of these signs is to raise awareness of the brave members of the U.S. armed forces that defend our country.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 11, 2024

The Department received no comments. The title of the proposed chapter and the catchwords for rule 761—131.2(314) were changed.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 6, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 6, 2025 9 to 9:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 884 467 433
January 6, 2025 2 to 2:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 369 976 022

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 131 and adopt the following **new** chapter in lieu thereof:

CHAPTER 131
SIGNING FOR IOWA MEDAL OF HONOR HIGHWAY

761—131.1(314) Contact information. Information regarding the signing addressed in this chapter is available from: Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. Submissions to the traffic and safety bureau may also be sent or delivered to this address. Additional information and guidance may be found at www.iowadot.gov/traffic/Library/Traffic-and-Safety-Manual.

761—131.2(314) Signing. This rule establishes the conditions and procedures for private entities to purchase and pay for the installation of signs designating the Iowa medal of honor highway.

131.2(1) Definition.

“Iowa medal of honor highway” means the segment of the highway known as United States Highway 20, as designated as of June 17, 2020, that crosses this state from Sioux City to Dubuque.

131.2(2) Conditions.

a. The number of signs within the highway right-of-way is limited to one sign at each end of the Iowa medal of honor highway for traffic entering the state and one sign at each entry point of the corporate limits of each city through which the Iowa medal of honor highway passes.

b. Each sign is to match the design approved and provided by the department, and the sign materials are to comply with departmental standard specifications as they exist at the time of fabrication. The departmental standard specifications can be found on the department’s electronic reference library at www.iowadot.gov/erl.

c. Once signs are installed at one of the approved locations, no additional requests will be accepted for that location. When signs have been installed at all locations identified in paragraph 131.2(2) “a,” no further requests will be accepted.

d. The applicant may purchase a sign from the department’s sign shop or from a private sign fabricator. If an applicant chooses to obtain a sign from a private sign fabricator, the department will furnish the sign design and approve the construction prior to purchase. The department will also inspect the sign as stated in subrule 131.2(5).

e. Signs designating the Iowa medal of honor highway are furnished and paid for by the applicants, including any replacements needed due to sign deterioration or damage. Each applicant is responsible for providing the traffic and safety bureau with the applicant’s current contact information so the applicant can be contacted when a replacement sign is needed. Failure to provide current information may result in removal of all signs the applicant purchased. This would allow a new private entity to sponsor the signing.

f. The applicant is responsible for the cost to install the sign, including the posts and hardware.

g. The department will install the sign.

131.2(3) Procedures. Requests to purchase or install a sign are submitted to the traffic and safety bureau and contain the following:

a. The applicant’s name and contact information.

b. A description of the location where the sign is to be installed.

c. A statement as to whether the sign will be purchased from the department or from a private sign fabricator.

131.2(4) Approval. If the request complies with this rule, the traffic and safety bureau will respond to the applicant with approval of the proposed location or modified location and an estimate of the costs for the sign and installation. Following inspection of the sign in compliance with subrule 131.2(5), the department will install the sign and bill the applicant.

131.2(5) Inspection. If a sign is not purchased from the department’s sign shop, the applicant is to deliver the sign to the department’s sign shop for inspection. Upon receipt of the sign, the department will inspect the sign for compliance with the approved sign design and departmental specifications and notify the applicant.

These rules are intended to implement Iowa Code section 314.31.

ARC 8479C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to surface transportation block grant program and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 162, “Surface Transportation Block Grant Program,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 8.41(3)“c” and 307.12(1)“j.”

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 8.41(3)“c,” 307.44 and 313.4(1).

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 162 in compliance with Executive Order 10. Proposed Chapter 162 establishes requirements for the distribution of federal Surface Transportation Block Grant (STBG) funds as required in Iowa Code section 8.41(3). This Iowa Code section requires that federal funds associated with a block grant be deposited in a special fund in order to allocate funds. Federal authorization laws appropriate funds to states to support transportation investments. A portion of these funds is made available through STBG funds. STBG funds can be used for any federal-aid highway, bridge or tunnel on any public road and may also be used on pedestrian bicycle infrastructure and transit improvements. These funds may also be swapped with primary road funds in accordance with Iowa Code section 313.4(1). These funds are administered by the Department and are made available on a fair and equitable basis. The Department, through consultation with city, county and local planning agency officials, makes these funds available to Iowa’s transportation management areas, metropolitan planning organizations and regional planning affiliations, counties, cities and the Department. Allocation of these funds is based on distribution methodology approved by the Iowa Transportation Commission upon passage of each federal authorization act. Funds allocated to cities and counties to support the Federal-aid Highway Bridge Program are made in accordance with Instructional Memorandum 1.100. All allocations of the STBG funds are made in accordance with the Federal Highway Administration’s regulations and include the allocations of the Surface Transportation Program (STP) Set-Aside for transportation alternatives as established in 23 U.S.C. Section 133(h).

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 24, 2024

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. This chapter allows for the expenditure of federal funds that are deposited in a special fund pursuant to Iowa Code section 8.41(3). Any costs incurred would be associated with the requirements of federal law in 23 U.S.C. Section 133(h). Costs

typically associated with federal aid projects include those necessary to plan, develop and administer projects; the benefits of which ensure the reimbursement of nearly \$100 million annually for investments in Iowa's transportation system.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 6, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 6, 2025 11 to 11:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 302 560 536
January 6, 2025 3 to 3:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 838 751 499

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 162 and adopt the following **new** chapter in lieu thereof:

CHAPTER 162 SURFACE TRANSPORTATION BLOCK GRANT PROGRAM

761—162.1(8,307) Purpose and information.

162.1(1) Federal authorization acts appropriate funds to states to support surface transportation investments. A portion of these funds are provided to the state of Iowa for the Surface Transportation Block Grant Program. The purpose of these rules is to establish requirements for the Surface Transportation Block Grant Program.

162.1(2) Information relating to this chapter may be obtained from the Program Management Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.239.1288; or on the department's website at www.iowadot.gov.

761—162.2(8,307) Source of funds. The Surface Transportation Block Grant Program established in 23 U.S.C. Section 133 provides for the use of federal funds to preserve and improve the condition and performance of any federal-aid highway, bridge or tunnel project on any public road. Surface Transportation Block Grant funds may also be used on pedestrian and bicycle infrastructure and transit capital projects, including intercity bus terminals.

761—162.3(8,313) Swapping of funds. Surface Transportation Block Grant funds allocated to city and county road or bridge construction projects may be swapped with primary road funds in accordance with Iowa Code section 313.4(1).

761—162.4(8,307) Administration of funds. Surface Transportation Block Grant funds are administered by the department and will be made available for obligation throughout the state on a fair and equitable basis. The department, in consultation with city, county and local planning agency officials, through their representative organizations, will allocate these funds to Iowa's transportation management areas, metropolitan planning organizations, regional planning affiliations, incorporated cities, counties and the department. Allocation of these funds is to be based upon a distribution methodology approved by the commission. The commission reviews and approves the distribution methodology upon passage of each federal authorization act. Funds allocated to cities and counties to support the Federal-Aid Highway Bridge Program will be made in accordance with Instructional Memorandum 1.100 dated June 12, 2024, available at www.iowadot.gov/local_systems/publications/im/1100.pdf. All allocations of the Surface Transportation Block Grant funds are made in accordance with the Federal Highway Administration's regulations and include the allocations of the Surface Transportation Program (STP) Set-Aside for transportation alternatives as established in 23 U.S.C. Section 133(h) in effect as of December 4, 2015.

These rules are intended to implement Iowa Code sections 8.41(3)"c," 307.44 and 313.4(1).

ARC 8490C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to quotation process for governmental entities for public improvement for vertical infrastructure and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 180, "Quotation Process for Governmental Entities for Public Improvement for Vertical Infrastructure," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)"j" and 314.1A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 26.2, 26.14, 314.1A, 314.1B, 573.2 and 573.28.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 180 in compliance with Executive Order 10. Proposed Chapter 180 establishes the process by which governmental entities are to obtain and evaluate competitive quotations relating to public improvement projects for vertical infrastructure. The intended benefit is to ensure competition and equal opportunity through a standardized process and to keep vendors accountable by permitting retained funds.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 11, 2024

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 8, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 8, 2025 9 to 9:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 260 760 222
January 8, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 952 817 462

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 180 and adopt the following new chapter in lieu thereof:

CHAPTER 180
QUOTATION PROCESS FOR GOVERNMENTAL ENTITIES FOR PUBLIC
IMPROVEMENT FOR VERTICAL INFRASTRUCTURE

761—180.1(26,314) Purpose and contact information.

180.1(1) The purpose of these rules is to prescribe the manner by which governmental entities are to administer competitive quotations for contracts pertaining to a public improvement for vertical infrastructure in accordance with Iowa Code section 26.14.

180.1(2) Questions regarding this chapter may be directed to the Resources and Acquisitions Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.239.1170.

761—180.2(26,314) Definitions.

“Estimated total cost” means the same as defined in Iowa Code section 26.2.

“Governmental entity” means the same as defined in Iowa Code section 26.2.

“Public improvement for vertical infrastructure” is a “public improvement” as defined in Iowa Code section 26.2(3)“a” and “b” but excludes those improvements in Iowa Code section 26.2(3)“b”(1) through 26.2(3)“b”(6).

“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.

761—180.3(314,573) Solicitation of quotations.

180.3(1) A governmental entity is to solicit competitive quotations for a public improvement for vertical infrastructure when the estimated total cost of the public improvement for vertical infrastructure 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 department’s website at www.iowadot.gov.

180.3(2) The governmental entity is to make a good-faith effort to obtain quotations for the work from at least two contractors regularly engaged in such work prior to letting a contract. Quotations are to be obtained by means of either an oral or a written solicitation directed to not less than two contractors.

180.3(3) Each solicitation is to include a description of the work to be performed, and plans and specifications for the work prepared by an architect or engineer if required by Iowa Code chapter 542B or 544A (additional guidelines can be found in 193B—Chapter 5 or rule 193C—1.5(542B)). In its

solicitation, the governmental entity is to advise each contractor that it has an opportunity to inspect the work site. Each contractor requesting to inspect the work site is to be provided an equal and adequate opportunity to do so.

180.3(4) Additional information deemed pertinent by the governmental entity, or requested by a contractor, may be provided by the governmental entity if the same information is provided to all contractors from which quotations are solicited. If the information is provided in written form to a contractor, it is to be provided in the same form to all contractors from which quotations are solicited.

180.3(5) In its solicitation, the governmental entity is to:

a. Specify the required form and content of quotations (more information can be found in rule 761—180.5(314)).

b. Request quotations to be filed by a particular time, at a particular location and with a particular office or representative of the governmental entity.

c. Establish the acceptable method(s) for delivery of quotations. The governmental entity may specify any or all of the following methods of delivery: mail, electronic mail, or delivery in-hand.

180.3(6) In accordance with Iowa Code section 573.2, the governmental entity is to utilize the solicitation to inform quoting contractors that the awarded contractor is to provide a performance and payment bond to secure the performance and timely completion of the work and to secure the payment of subcontractors and suppliers.

180.3(7) In its solicitation, the governmental entity may stipulate that each quoting contractor:

a. Provide along with its quotation a bid bond, or other bid security or evidence of its responsibility, to ensure that it will enter into a contract to perform the work and that it will provide the necessary performance and payment bond.

b. Commit to the execution of a contract for the work.

c. Commit to commencement and completion dates for the work as directed by the governmental entity.

d. File evidence of insurance, as specified by the governmental entity, with its quotation, or commit to filing such evidence of insurance upon award of the contract to perform the work.

180.3(8) In its solicitation, the governmental entity may provide that it will issue special sales tax exemption certificates to contractors and subcontractors pursuant to Iowa Code section 423.3(80).

761—180.4(314) Submission of competitive quotation by governmental entity. The governmental entity may itself file a competitive quotation to perform the work. The governmental entity's quotation is to be filed in the same manner as quotations are to be filed by contractors except as provided in subrule 180.5(3).

761—180.5(314) Form and content of competitive quotations.

180.5(1) A competitive quotation filed by a contractor or by the governmental entity is to be in writing and include the total price for labor, equipment, materials and supplies necessary to perform the work. A contractor may include in its quotation or in individual quotation items a breakdown of costs for labor, materials, equipment and supplies. Competitive quotations filed by contractors are to include all other information, documentation or commitments requested by the governmental entity in its solicitation of quotations.

180.5(2) If the governmental entity in its solicitation indicates its intention to file a competing quotation, contractors are to also separately identify in their quotations the premium cost for the necessary performance and payment bond and an estimate of the sales and fuel taxes they will incur in performing the work. However, if in its solicitation the governmental entity provides for the issuance of sales tax exemption certificates to the contractor and subcontractors performing the work, quoting contractors are not to include or separately identify estimated sales tax in their quotations.

180.5(3) A quotation submitted by a governmental entity need not include the information, documents or commitments in subrule 180.3(7). A performance and payment bond is not mandatory for a governmental entity.

180.5(4) The governmental entity may insist that quotations from contractors be submitted on a form prescribed by the governmental entity, provided the form complies with these rules.

761—180.6(314) Evaluation of competitive quotations.

180.6(1) If a quoting contractor does not file a quotation in the form specified by the governmental entity, or does not provide all information or documentation or make all commitments requested by the governmental entity, or does not sign the quotation if required by the governmental entity, the quotation will be determined to be nonresponsive and be rejected by the governmental entity.

180.6(2) If the governmental entity submits a quotation to perform the work, paragraphs 180.6(2) “a” through “c” are applicable. If the governmental entity does not submit a quotation, these paragraphs do not apply.

a. Because the governmental entity is not required to pay sales tax or fuel tax or to submit a performance and payment bond in connection with work performed by governmental employees using governmental equipment, each contractor’s total quotation is to be adjusted to deduct the amounts identified in the quotation for estimated sales and fuel taxes and the bond premium. The amount of each contractor’s adjusted quotation is to then be compared to the amount of the quotation submitted by the governmental entity for the purpose of determining if the governmental entity’s quotation is the lowest responsive, responsible quotation.

b. If in its solicitation the governmental entity provides for the issuance of sales tax exemption certificates to the contractor and subcontractors performing the work, quoting contractors are not to include or separately identify estimated sales tax in their quotations, and the governmental entity is not to deduct estimated sales tax from the contractors’ quotations for the purpose of determining if the governmental entity’s quotation is the lowest responsive, responsible quotation.

c. The governmental entity may request that the contractor to which the work is awarded provide documentation of the premium cost incurred by it for the performance and payment bond and of all sales and fuel taxes paid by it and its subcontractors in connection with the work. The governmental entity may decline to pay the amounts identified by the contractor in its quotation for the bond premium and estimated sales and fuel taxes if these amounts are not properly documented as having been paid.

761—180.7(314) Award of contract and subsequent procedures.

180.7(1) Except as provided in subrule 180.7(3), the governmental entity is to award the contract for the work to the contractor submitting the lowest responsive, responsible quotation, subject to Iowa Code section 26.9, or the governmental entity may reject all of the quotations. A contract is to be considered awarded when the governmental entity unconditionally accepts and approves the lowest responsive, responsible quotation. The governing body of the governmental entity is to record the approved quotation in its meeting minutes.

180.7(2) The governing body of a governmental entity may delegate the authority to award and execute contracts, or to award contracts and authorize the work to proceed, to an officer or employee of the governmental entity, provided that an award approved outside a meeting of the governing body is to be reported in the meeting minutes of the next regular meeting of the governing body.

180.7(3) If no quotations are received from contractors to perform the work or if the governmental entity’s estimated cost to do the work with its employees, as reflected in its quotation, is less than the lowest responsive, responsible quotation received from a contractor, the governmental entity may authorize its employees to perform the work.

180.7(4) Upon the submission of the necessary performance and payment bond by the contractor to which the contract has been awarded and upon approval of the bond by the governmental entity, the governmental entity is to execute a contract to perform the work or shall authorize the contractor to proceed with the work.

180.7(5) Upon execution of the contract by the contractor and the governmental entity or upon authorization to proceed by the governmental entity and acknowledgment thereof by the contractor, the governmental entity releases the bid bonds or other quotation security submitted with the quotations received.

180.7(6) If the governmental entity is a city and the cost of the work will exceed the amount provided for in Iowa Code section 380.4, the governing body is to pass a resolution approving the expenditure.

761—180.8(314,573) Retained funds. In addition to requiring the contractor to submit a performance and payment bond, the governmental entity also retains funds from each payment to the contractor for the benefit of subcontractors and suppliers, and applies or releases such funds, in accordance with Iowa Code chapter 573.

These rules are intended to implement Iowa Code sections 26.2, 26.14, 314.1A, 314.1B, 573.2, and 573.28.

ARC 8484C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to driver's privacy protection and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 301, "Driver's Privacy Protection—Motor Vehicle Records," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)"j," 321A.3 and 321.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 18 U.S.C. Section 2721 et seq. and Iowa Code sections 321.1, 321.10, 321.11, 321.13 and 321A.3.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 301 in compliance with Executive Order 10. Proposed Chapter 301 implements Iowa Code section 321.11, which explains Iowa's adoption of the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. Section 2721 et seq.), and Iowa Code section 321A.3, which requires the Department to provide operating record abstracts upon request. The chapter explains the requirements, procedures, and exceptions for requesting personal information and highly restricted personal information contained in motor vehicle records, including crash reports, vehicle information, and driver record information. This chapter also explains the requirements for obtaining bulk data that does not include personal information from the Department's Motor Vehicle Division.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 11, 2024

The Department received one written comment from the American Property Casualty Insurance Association (APCIA) seeking confirmation whether the chapter continued to allow insurance companies to obtain motor vehicle records as authorized requesters under the Driver's Privacy Protection Act (DPPA) without first having to obtain the express written consent from the subject of the record. The Department confirmed to APCIA that nothing in the chapter would prohibit insurance companies to continue to obtain motor vehicle records as permitted by the DPPA without first having to obtain the express written consent of the subject of the record.

Fiscal Impact

The Department anticipates that approximately \$90,951 will be collected in bulk data request fees annually due to the Department's authority under Iowa Code section 321.11 to collect reasonable fees for provisions of bulk records. Any other fees collected for motor vehicle records are set by statute, not rule, and thus would not cause a fiscal impact to the State beyond what is already required by the underlying statute.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 6, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 6, 2025 9 to 9:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 578 341 138
January 6, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 418 156 888

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 301 and adopt the following **new** chapter in lieu thereof:

VEHICLES

CHAPTER 301

DRIVER'S PRIVACY PROTECTION—MOTOR VEHICLE RECORDS

761—301.1(321) Applicability and adoption. This chapter applies to personal information and highly restricted personal information in motor vehicle records of the department. The department adopts the Driver's Privacy Protection Act of 1994 (18 U.S.C. §2721 and 2725 effective as of October 23, 2000, and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994) for motor vehicle records. The department does not provide the waiver procedure described in the Driver's Privacy Protection Act (codified as 18 U.S.C. §2721(d) effective as of October 23, 2000).

This rule is intended to implement Iowa Code section 321.11; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994.

761—301.2(321) Definitions. The definitions in Iowa Code section 321.1 and 18 U.S.C. §2725 effective as of October 23, 2000, are hereby adopted and incorporated. In addition:

"Certified abstract of operating record" means the same as described in Iowa Code section 321A.3(1).

"Driver's license" means the same as defined in Iowa Code section 321.1(20A).

"Express written consent" as used in Iowa Code section 321.11 means the same as "express consent" as defined in 18 U.S.C. §2725(5) effective as of October 23, 2000, and must either be notarized or accompanied by proof of identity of the requester.

"Law enforcement agency" includes but is not limited to county attorneys, federal district attorneys, attorneys general, state and federal departments of justice, and a division or unit of a governmental agency if the division's or unit's primary responsibility is to prevent or detect crime or enforce criminal laws.

"Motor vehicle record" as used in the Driver's Privacy Protection Act and this chapter means any record that pertains to a driver's license, nonoperator's identification card, certificate of title, registration receipt, or registration renewal receipt issued by the department or a county treasurer. This also includes information on individuals who do not currently hold a driver's license or nonoperator's identification card, including but not limited to operating records and records of driver sanctions.

"Proof of identity" means a copy of the individual's driver's license or nonoperator's identification card issued by the department or another state, the document discriminator number of a driver's license or nonoperator's identification card issued by the department, or an alternate form approved by the department.

"Requester" means an individual, organization or entity that seeks from the department access to personal information or highly restricted personal information contained in a motor vehicle record. A requester does not include an individual who is an authorized employee of the department or a county treasurer acting within the scope of the employee's office or employment.

"Sanction" means the same as defined in rule 761—615.1(321).

This rule is intended to implement Iowa Code sections 321.1 and 321.11; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994.

761—301.3(321) Information and addresses. Information and forms for records pertaining to motor vehicle records may be obtained at any driver's license service center or by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at 515.237.3110; by email at privacy.agreements@iowadot.us; or on the department's website at www.iowadot.gov/mvd/vehicleregistration/records for vehicle records and www.iowadot.gov/mvd/driverslicense/records for driving records.

This rule is intended to implement Iowa Code section 321.11.

761—301.4(321) Requirements and procedures.

301.4(1) A requester seeking personal information or highly restricted personal information is required to:

a. Complete Form 431069, “Privacy Act Agreement for Request of Motor Vehicle Records,” and submit the form to any driver’s license service center or the motor vehicle division at the address in rule 761—301.3(321). Requests for information about another individual require completion of Parts A, B (if applicable), C, and D of Form 431069. Requests for an individual’s own information require completion of Part A.

b. Provide proof of identity and proof of eligibility to access the information. The department may request additional information to confirm that the requester is eligible under Iowa Code section 321.11; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; 18 U.S.C. §2722 through 2724 effective as of September 13, 1994; and this chapter to access the information.

301.4(2) A law enforcement agency that requests personal information or highly restricted personal information is to either follow the process in subrule 301.4(1) or complete and submit Form 431200, “Certified Motor Vehicle Record Request Form for Use by County Attorney’s Offices and Law Enforcement Agencies,” to any driver’s license service center or the motor vehicle division at the address in rule 761—301.3(321). Alternately, a law enforcement agency may enter into a memorandum of understanding with the department for the purposes of requesting personal information or highly restricted personal information.

301.4(3) Personal information and highly restricted personal information, except for an individual’s photograph or image, may be disclosed with the express written consent of the individual or vehicle owner to whom such information applies. When the requester has obtained the written consent of the individual or vehicle owner to whom the information applies, the requester must attach that written consent on a completed Form 431069, “Privacy Act Agreement for Request of Motor Vehicle Records,” and submit the form to any driver’s license service center or the motor vehicle division at the address in rule 761—301.3(321).

301.4(4) The statutory fee, if applicable, is due at the time the request for a motor vehicle record is submitted.

301.4(5) Requested information will be provided to the requester electronically unless the requester specifies otherwise. The department shall not release any personal information or highly restricted personal information if the request is made by plate number or validation sticker number, except as provided in Iowa Code section 321.11.

301.4(6) All requesters who obtain personal information or highly restricted personal information from the department are required to comply with Iowa Code section 321.11 and the Driver’s Privacy Protection Act.

This rule is intended to implement Iowa Code sections 321.10, 321.11 and 321.13; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994.

761—301.5(321) Online motor vehicle records access. Online access to motor vehicle records may be available to recurring authorized requesters upon approval by the department and upon payment of any applicable fees. The requester must complete and submit Form 430030 using a method provided for in rule 761—301.3(321), including any required attachments.

This rule is intended to implement Iowa Code section 321.11; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994.

761—301.6(321,321A) Certified abstract of operating records.

301.6(1) A certified abstract of the operating record includes the information that is on the face of an individual’s driver’s license, plus information on the individual’s sanctions, reportable vehicle accidents, and convictions. The certified abstract of operating record does not include the individual’s photograph, social security number, or medical or disability information.

a. In accordance with Iowa Code section 321A.3, a certified abstract of operating record can be obtained by following the process outlined in rule 761—301.4(321).

b. The statutory fee, if applicable, is due at the time of the request.

301.6(2) The single-use restriction in Iowa Code section 321A.3(8) applies only to the certified abstract of operating records and to persons who are subject to the fee listed in Iowa Code section 321A.3(1).

301.6(3) Any person who obtains a certified abstract of operating record from the department is required to comply with Iowa Code section 321.11 and the Driver's Privacy Protection Act.

This rule is intended to implement Iowa Code sections 321.11, 321.13 and 321A.3; 18 U.S.C. §2721 and 2725 effective as of October 23, 2000; and 18 U.S.C. §2722 through 2724 effective as of September 13, 1994.

761—301.7(321) Fees for records. In addition to the statutory fees, the following fees related to motor vehicle records of the department provided pursuant to Iowa Code section 321.10 or 321.11 may include:

301.7(1) A \$5 fee for an audio recording of a contested case hearing.

301.7(2) A \$0.0003-per-record or -line of data bulk data request fee. However, no fee will be assessed to requesters that are government entities.

301.7(3) A one-time programming set-up fee for online data access or electronic data transfers, not to exceed the costs incurred in the set-up.

301.7(4) Fees commensurate with file size and complexity for other data file requests.

This rule is intended to implement Iowa Code sections 321.10 and 321.11.

ARC 8474C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to equipment and inspection requirements for certain motor vehicles and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 450, "Motor Vehicle Equipment," and to adopt a new Chapter 450, "Equipment and Inspection Requirements for Certain Motor Vehicles," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)"j" and 321.438.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 307.12(1)"j," 321.1, 321.23, 321.438 and 321.445.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 450 in compliance with Executive Order 10. Proposed Chapter 450 implements Iowa Code section 321.23, which authorizes the registration and titling of specially constructed or reconstructed vehicles, street rods, or replica vehicles in Iowa. The proposed chapter also implements Iowa Code section 321.438, which requires the Department to establish a minimum measurable standard of transparency for windshields, windows and sidewings, and Iowa Code section 321.445, regarding exemptions from seat belt requirements.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 10, 2024

The Department received no comments. The date certain of 49 CFR Section 571.205 within paragraphs 450.2(4)“a” and “b” and the date certain of 49 CFR Section 393.83 within subrule 450.4(7) were changed to October 1, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 6, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 6, 2025 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 750 118 245
January 6, 2025 2 to 2:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 741 069 091

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 450 and adopt the following **new** chapter in lieu thereof:

CHAPTER 450
EQUIPMENT AND INSPECTION REQUIREMENTS FOR CERTAIN MOTOR VEHICLES

761—450.1(307,321) Addresses information and application.

450.1(1) Information. Information for inspections may be obtained from the Bureau of Investigation and Identity Protection, Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa; by email at www.iowadot.gov/biip/contact-us; or on the department's website at www.iowadot.gov/mvd/vehicleregistration/vehicle-inspections-for-titling.

450.1(2) Definitions. The definitions in Iowa Code section 321.1 and rule 761—400.16(321) are hereby made part of this chapter. In addition:

a. The exchange of compatible body parts does not meet the definition of a specially constructed, reconstructed, street rod, or replica motor vehicle; or of a specially constructed or reconstructed motorcycle or motorized bicycle; or of a specially constructed, reconstructed, street rod, or replica autocycle.

b. The removal, addition, or substitution of reconstructed motor vehicle parts that modifies the vehicle's external appearance so that it does not reflect the original make or manufacturer model for that model does meet the definition of a specially constructed, reconstructed, street rod, or replica motor vehicle.

c. The removal, addition, or substitution of a reconstructed motorcycle or motorized bicycle part that modifies the vehicle's external appearance so that it does not reflect the original make or manufacturer model does meet the definition of a specially constructed, reconstructed, street rod, or replica motorcycle or motorized bicycle.

EXEMPTION: The conversion of a manufactured motorcycle from two-wheel to three-wheel operation by the addition or substitution of a bolt-on conversion kit does not meet the definition of a reconstructed motorcycle.

d. The removal, addition, or substitution of reconstructed autocycle parts that modifies the autocycle's external appearance so that it does not reflect the original make or manufacturer model for that model does constitute a specially constructed, reconstructed, street rod, or replica autocycle.

450.1(3) Application.

a. After receiving the application forms and exhibits outlined in rule 761—400.16(321), the department shall:

(1) Examine the vehicle and ownership documents.

(2) Determine if the motor vehicle complies with this rule, that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly.

(3) If the provisions of paragraph 450.1(3)“*b*” are met, assign an identification number to the vehicle and certify that the motor vehicle is eligible for titling and registration.

b. If the frame or unibody specified on an application for a specially constructed, reconstructed, street rod, or replica motor vehicle; a specially constructed or reconstructed motorcycle or motorized bicycle; or a specially constructed, reconstructed street rod or replica autocycle is manufactured or designated “not for highway use,” the application shall not be approved.

This rule is intended to implement Iowa Code sections 307.12(1)“*j*,” 321.1 and 321.23.

761—450.2(307,321) Equipment requirements for specially constructed, reconstructed, street rod, and replica motor vehicles other than autocycles, motorcycles and motorized bicycles. The following standards are minimum requirements to meet the definition of a specially constructed, reconstructed, street rod, and replica motor vehicle other than autocycles, motorcycles and motorized bicycles:

450.2(1) Defroster and defogging device. If the motor vehicle is a closed motor vehicle, it is equipped with a device capable of defogging or defrosting the windshield area.

450.2(2) Door latches. The motor vehicle that is equipped with doors leading directly into a compartment that contains one or more seating accommodations is equipped with mechanically actuated door latches that firmly and automatically secure the door when pushed closed and that allow each door to be opened from the inside by the actuation of a convenient lever, handle or other nonelectric device. Interior handles must be visible.

450.2(3) Floor pan. The motor vehicle is equipped with a floor pan under the entire passenger-carrying compartment that supports the weight of the number of occupants that the vehicle is designed to carry. The floor pan shall be so constructed that it prevents the entry of exhaust fumes.

450.2(4) Glazing.

a. Windshields. The motor vehicle is equipped with a laminated safety glass windshield that complies with and bears the approval marking of the American National Standards Institute (ANSI) Z 26.1-1996 Standard as set forth in 49 CFR Section 571.205 effective October 1, 2024. The windshield shall be in such a position that it affords continuous horizontal frontal protection to the driver and front seat occupants. The minimum vertical height of the unobstructed windshield glass shall be six inches. This paragraph does not preclude the use of a windshield that can be folded down to a horizontal position, provided that the windshield can be firmly fastened in both the vertical and horizontal positions.

b. Side and rear glass. Side and rear glass is not required in motor vehicles. If present, however, this glass must be either laminated or tempered safety glass bearing the approval of the ANSI Z 26.1-1996 Standard as set forth in 49 CFR Section 571.205 effective October 1, 2024.

450.2(5) Driver visibility. The motor vehicle provides the driver with a minimum outward horizontal vision capability of 90 degrees each side of a vertical plane passing through the fore and aft centerline of the vehicle. This plane of vision may be interrupted by window framing and windshield door support posts not exceeding four inches in width at each side location.

450.2(6) Hood latches. If a motor vehicle is equipped with a front-opening hood, that hood is equipped with a primary and secondary latching system to hold the hood in a closed position.

450.2(7) Instruments and controls. The motor vehicle is equipped with:

- a.* An operating speedometer calibrated to indicate “miles per hour.”
- b.* An operating odometer calibrated to indicate “total miles driven.”
- c.* A steering wheel circular or nearly circular in shape, having an outside diameter of not less than 13 inches.
- d.* An accelerator control system that returns the engine throttle to an idle position automatically when the driver removes the actuating force from the accelerator control.

450.2(8) Brakes. The motor vehicle is equipped with brakes acting upon all wheels, service brakes, and parking brakes that comply with Iowa Code sections 321.430 and 321.431.

450.2(9) Rearview mirror. The motor vehicle is equipped with two rearview mirrors, each having substantial unit magnification. One is mounted on the inside of the vehicle in such a position that it affords the driver a clear view to the rear. The other is mounted on the outside of the vehicle on the driver’s side in such a position that it affords the driver a clear view to the rear. When an inside mirror does not give a clear view to the rear, a right-hand outside mirror is required in lieu thereof. The mirror mounting provides a stable support for the mirror and provides for mirror adjustment by tilting in both horizontal and vertical directions. Each mirror has a minimum of ten square inches of reflective surface.

450.2(10) Seat belts. The motor vehicle complies with Iowa Code section 321.445(1).

450.2(11) Seating. All bench-type and individual seats in motor vehicles are firmly anchored to structural components or body parts.

450.2(12) Exhaust system. The motor vehicle has an exhaust system meeting the following requirements:

- a.* The system is free of leaks, including the exhaust manifold (or headers), piping forward of the muffler, the muffler(s), and tail piping.

b. Exhaust fumes are emitted to the extremity of the vehicle, behind the rear wheels, or to the extremity of the vehicle within six inches in front of the rear wheels. Exhaust fumes from trucks, other than enclosed vans, may be emitted to the rear of that part of the vehicle designed for and normally used for carrying the driver and passengers.

c. Each exhaust system is equipped with a muffler that prevents excessive noise.

d. No part of the exhaust system passes through any area of the vehicle that is used as a passenger-carrying compartment, and is constructed that persons entering the vehicle cannot make contact with the exhaust system.

e. All exterior side exhaust pipes are fully shielded and any vertical truck exhaust stacks are shielded to the top of the cab.

450.2(13) *Frame.* The motor vehicle is equipped with a frame consisting of wall box tubing, round tubing, wall channel or unitized construction capable of supporting the vehicle, its load and the torque produced by the power source.

450.2(14) *Fuel system.* The motor vehicle has a fuel system in which all components are securely fastened with fasteners designed for this purpose, including the tank, tubing, hoses, clamps, etc. The filler from the system is located in a position not within the passenger-carrying compartment and is capped. The system is leakproof, and fuel lines are positioned so as not to come in contact with high temperature surfaces or moving parts.

450.2(15) *Steering and suspension.*

a. The motor vehicle does not have any parts extending below the wheel rims in their lowest position, except for tires and electrical grounding devices designed for this purpose.

b. The steering system remains unobstructed when turned from lock to lock.

c. The steering wheel has no less than two turns and no more than six turns when turning the road wheels from lock to lock.

d. While in a sharp turn at a speed between 5 and 15 MPH, release of the steering wheel results in a distinct tendency for the vehicle to increase its turning radius.

e. The motor vehicle is not constructed so that the weight on any axle is less than 20 percent of the gross weight of the vehicle and load.

f. The motor vehicle is equipped with a damping device at each wheel location providing a minimum relative motion between the unsprung axle and the chassis of plus or minus two inches.

g. When each corner of the vehicle is depressed and released, the damping device stops vertical body motion within two cycles.

h. There is no heating or welding on coil springs, leaf springs, or torsion bars.

450.2(16) *Tires.* Tires comply with Iowa Code section 321.440. Each tire has a load-bearing capacity in keeping with the size and weight of the vehicle.

450.2(17) *Lighting and electrical system.* The motor vehicle is equipped with approved lighting devices in sufficient number, type, and locations to meet the requirements of Iowa Code sections 321.384 through 321.423, including headlamps, rear lamps, license plate lamp, rear reflectors, parking lamps, stop lamps, turn signals, and high-low beam indicator. In addition, the motor vehicle is equipped with:

a. A driver-controlled switch capable of selecting high and low beams (dimmer switch).

b. A motor vehicle more than 40 inches in width is equipped with turn signal lamps and have a manually operated switch controlled by the driver that causes the turn signal lamps to function. This switch is self-canceling.

c. A horn that complies with Iowa Code section 321.433.

d. All wiring is done in an orderly and workmanlike fashion, with no wiring in contact with high temperature surfaces or moving parts.

e. Headlamps are in a plane that is perpendicular to a vertical plane through the longitudinal centerline of the vehicle. The headlamps are mounted not less than 24 inches, nor more than 54 inches, above the road surface when measured to the headlamp center.

f. A tail lamp or lamps are mounted on the rear of the motor vehicle or vehicle, exhibiting a red light plainly visible from a distance of 500 feet to the rear. The tail lamp or lamps are mounted not less than 15 inches, nor more than 72 inches, above the roadway.

g. All original lamps and lighting equipment provided on the motor vehicle by the manufacturer are maintained in working condition or shall be replaced with equivalent equipment.

This rule is intended to implement Iowa Code sections 307.12(1) “j” and 321.23.

761—450.3(307,321) Minimum requirements for constructing and equipping specially constructed or reconstructed motorcycles or motorized bicycles. The following standards are minimum requirements to meet the definition of a specially constructed or reconstructed motorcycle or motorized bicycle as defined in Iowa Code section 321.1:

450.3(1) *Upgrade pulls—minimum speed.* Iowa Code section 321.382 applies.

450.3(2) *Frame/chassis.* The motorcycle or motorized bicycle frame/chassis, including the suspension components and engine mountings, is of sufficient strength, capable of supporting the combined weight of all vehicle components and riders for which the vehicle was designed.

450.3(3) *Front end assembly.*

a. *Trail (extended fork measured in inches).* The reconstructed or specially constructed motorcycle or motorized bicycle does not have the front fork so extended as to place the center of the front wheel axle farther than 36 inches from a vertical plane through the steering axis.

b. *Rake (extended fork measured in degrees).* The reconstructed or specially constructed motorcycle or motorized bicycle does not have the front fork so extended as to exceed a 45-degree angle between the fork assembly and a vertical plane through the steering axis.

c. *Extensions.* The reconstructed or specially constructed motorcycle or motorized bicycle is not equipped with extension slugs. However, one-piece extension tubes and springer units, if approved, are acceptable.

d. *Wheelbase.* The reconstructed or specially constructed motorcycle or motorized bicycle does not have an overall wheelbase, measured from the center of the front axle to the center of the rear axle, of less than 40 inches.

e. *Motorcycle front end geometry.* A representation of the front end geometry of a motorcycle is depicted in the Appendix to this rule.

450.3(4) *Brakes.* The motorcycle and motorized bicycle is equipped with at least a rear brake. If the vehicle is also equipped with a front brake, all control cables, lines and hoses are located and secured so as not to become pinched between the fork and frame members when the wheel is turned completely to the left or right. Brake-actuating devices are in a readily accessible location, unencumbered by vehicle components. A suitable mechanism is provided for the purpose of automatically returning the actuating devices to a normal position upon release.

450.3(5) *Tires, wheels, rims.* The motorcycle tires are of pneumatic design with a minimum width of two and twenty-five hundredths inches and designed for highway use. Wheel rim diameters are not less than 10 inches and rims otherwise comply with applicable federal standards.

450.3(6) *Steering and suspension.*

a. *Stability.* The motorcycle or motorized bicycle steering and suspension provides the operator with the means of safely controlling vehicle direction.

b. *Wheel alignment.* The rear wheel of a two-wheel motorcycle or motorized bicycle tracks behind the front wheel within one inch with both wheels in a vertical plane when the vehicle is operating on a straight course. On a three-wheel motorcycle or motorized bicycle, the two wheels mounted on the rear axle have a wheel track distance not less than 30 inches and the midpoint of the rear wheel track distance is within 1 inch of the front wheel track when the vehicle is proceeding on a straight course.

c. *Steering.*

(1) The steering head is provided with a bearing or similar device that will allow the steering shaft to turn freely in rotational motion only. All handlebar-mounted control cables, wires, lines and hoses are located and secured so as not to become pinched between the fork and frame members when the wheel is turned completely to the right or the left.

(2) A steering wheel may be used on a three-wheel reconstructed or specially constructed motorcycle or motorized bicycle provided:

1. The steering wheel is circular or nearly circular in shape, having an outside diameter of not less than 13 inches.

2. The steering wheel has no less than two turns and no more than six turns when the road wheels are turned from lock to lock.

d. Handlebars. Handlebars are of sturdy construction, adequate in size (length) to provide proper leverage for steering, and capable of withstanding a minimum force of 100 pounds applied to each hand grip in any direction. The handlebars provide a minimum distance of 18 inches between grips after final assembly.

e. Hand grips. The motorcycle or motorized bicycle has handlebars equipped with hand grips of nonslip design or material.

f. Suspension. The motorcycle or motorized bicycle is equipped with a suspension system, and the suspension system applies to at least the front wheel. The suspension system(s) is designed for the purpose of maximum vehicle stability.

450.3(7) Fuel system. All fuel system components, including the tank, pump, tubing, hoses, clamps, etc., are securely fastened to the motorcycle or motorized bicycle so as not to interfere with vehicle operation and are leakproof when the vehicle is in its normal operating attitude. Fuel lines and tank are positioned in a manner so as to prevent their contact with the engine head, manifold, exhaust system, or other high temperature surfaces or moving components. The fuel system is adequately vented and provided with a fuel shutoff valve located between the fuel supply and the engine.

450.3(8) Exhaust system. The motorcycle or motorized bicycle with an internal combustion engine is equipped with an exhaust system incorporating a muffler or other mechanical device for the purpose of reducing engine noise. Cutouts and bypasses in the exhaust system are prohibited. The system is leakproof and all components are securely attached to the vehicle and located so as not to interfere with the operation of the motorcycle or motorized bicycle. Shielding is provided to prevent inadvertent contact with the exhaust system by the operator and/or passenger during normal operations.

450.3(9) Mirrors. The motorcycle and motorized bicycle is equipped with at least one mirror of unit magnification, securely affixed to the handlebar and capable of adjustment within a range that will reflect an image that includes at least the horizon and the road surface to the rear of the motorcycle or motorized bicycle. The mirror consists of a minimum reflective surface of ten square inches. All mirrors are regular in shape (circular, oval, rectangular, or square) and do not contain sharp edges or projections capable of producing injury.

450.3(10) Seat or saddle. A seat or saddle securely attached to the vehicle is provided for the use of the operator. The seat or saddle is not less than 20 inches above a level road surface when measured to the lowest point on top of the seat or saddle cushion with the driver seated in a driving position. The seat or saddle adjustment locking device prevents relative movement of the seat from its selected and secured position under all normal vehicle operating conditions.

450.3(11) Horn. The motorcycle or motorized bicycle complies with Iowa Code sections 321.432 and 321.433.

450.3(12) Speedometer and odometer. The motorcycle or motorized bicycle is equipped with a properly operating speedometer and odometer calibrated in miles per hour and miles respectively and is fully illuminated when the headlamp(s) is activated.

450.3(13) Lighting equipment. The motorcycle or motorized bicycle is equipped with at least one headlamp but not more than two, mounted securely. Headlamp(s) are mounted not less than 24 inches, nor more than 54 inches, above the level road surface. A headlight beam indicator light is located within the operator's field of vision and illuminated automatically when the high beam of the headlamp is actuated. The motorcycle or motorized bicycle is equipped with a tail and brake light assembly and a license plate light. All original lamps and lighting equipment provided on the motor vehicle by the manufacturer are maintained in working condition or are replaced with equivalent equipment.

450.3(14) Footrest. The motorcycle is equipped with two footrests, one on each side of the vehicle and footrests are provided for each designated seating position. Footrests are located so as to provide

reasonable accessibility. Footrests are able to fold upward if they protrude beyond the side of the motorcycle's fixed items. The motorized bicycle is equipped with either two footrests or two pedals, one on each side of the vehicle, to provide reasonable accessibility.

450.3(15) Highway bars. If a motorcycle or motorized bicycle is so equipped, highway bars (alternate footrests) are located at a maximum distance of 26 inches from the foot controls and do not interfere with the operation of the foot controls.

This rule is intended to implement Iowa Code sections 307.12(1) "j" and 321.23.

761—450.4(307,321) Minimum requirements for constructing and equipping specially constructed or reconstructed autocycles. Minimum requirements to meet the definition of a specially constructed or reconstructed autocycle as defined in Iowa Code section 321.1 are as follows:

450.4(1) Seat belt. The autocycle complies with Iowa Code section 321.445(1).

450.4(2) Seat. A seat that is firmly attached to the autocycle and does not require the operator to straddle or sit astride is provided for the use of the operator.

450.4(3) Lighting equipment. The autocycle is equipped with at least one headlamp, at least one taillight, and either a taillight or a separate white light that illuminates the license plate if a taillight does not. All original lamps and lighting equipment provided on the autocycle by the manufacturer are maintained in working condition or are replaced with equivalent equipment.

450.4(4) Warning devices. The autocycle is equipped with at least one red reflector, either separate or as part of the taillight or taillights.

450.4(5) Brakes. The autocycle is equipped with a braking system, other than a parking brake, in accordance with Iowa Code section 321.431.

450.4(6) Horn. The autocycle is equipped with a horn that complies with Iowa Code section 321.433.

450.4(7) Exhaust system. The autocycle with an internal combustion engine is equipped with a muffler and emission control system in accordance with 49 CFR Section 393.83 as amended through October 1, 2024. When a muffler and emission control system are factory equipped, neither may be removed.

450.4(8) Mirrors. The autocycle is equipped with a mirror that shall consist of a minimum reflective surface of ten square inches. All mirrors are regular in shape (circular, oval, rectangular, or square) and do not contain sharp edges or projections capable of producing injury.

450.4(9) Tires. The autocycle is equipped with tires that comply with the requirements of Iowa Code section 321.440.

450.4(10) Floor pan. The autocycle is equipped with a floor pan under the entire passenger-carrying compartment. The floor pan supports the weight of the number of occupants that the autocycle is designed to carry. The floor pan is so constructed that it prevents the entry of exhaust fumes.

This rule is intended to implement Iowa Code sections 307.12(1) "j" and 321.23.

761—450.5(321) Front windshields, windows or sidewings.

450.5(1) "Excessively dark or reflective" means that the windshield, front side window or front sidewing does not meet a minimum standard of transparency of 70 percent light transmittance.

450.5(2) Motor vehicles operating with a dark window exemption issued prior to July 4, 2012, are subject to the provisions of rule 761—450.7(3) in effect April 13, 2022.

This rule is intended to implement Iowa Code section 321.438.

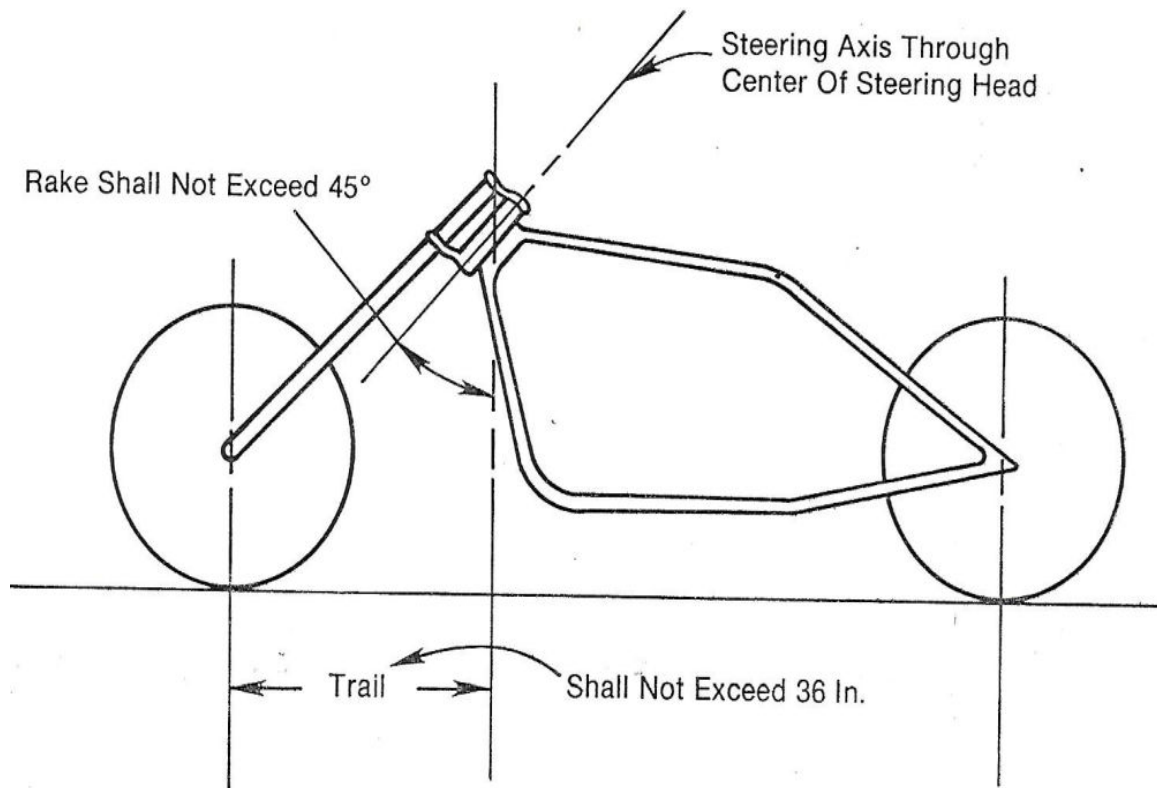
761—450.6(307,321) Seat belt exemptions.

450.6(1) A person who is unable to wear a safety belt or safety harness for physical or medical reasons may obtain a form to be signed by the person's health care provider licensed under Iowa Code chapter 148 or 151. Form No. 432017, "Iowa Medical Safety Belt Exemption," is available from the motor vehicle division.

450.6(2) Iowa Code sections 321.445(1) and 321.445(2) shall not apply to the front seats and front seat passengers of motor vehicles owned, leased, rented or primarily used by a person with a physical disability who uses a collapsible wheelchair.

This rule is intended to implement Iowa Code sections 307.12(1) “j” and 321.445.

APPENDIX TO RULE
761—450.3(321)
MOTORCYCLE FRONT END GEOMETRY



ARC 8488C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rulemaking related to towing wrecked or disabled vehicles
and providing an opportunity for public comment**

The Transportation Department hereby proposes to rescind Chapter 454, "Towing Wrecked or Disabled Vehicles," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)"j" and 321.463.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 321.463 and 23 U.S.C. Section 141(a) and (b).

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 454 in compliance with Executive Order 10. Proposed Chapter 454 aims to provide a clearer definition of the terms “tow” and “wrecked or disabled vehicle” within the context of Iowa Code section 321.463. Specifically, the chapter limits the weight exemption under Iowa Code section 321.463 to situations where a disabled vehicle is being removed from a crash scene to a location for repair or storage.

Additionally, this chapter ensures compliance with federal law (specifically 23 U.S.C. Section 141(a) and (b)), which pertains to the enforcement of vehicle size and weight laws.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 9, 2024

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 7, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 6, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 827 964 961
January 7, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 652 740 49

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 454 and adopt the following **new** chapter in lieu thereof:

CHAPTER 454
TOWING WRECKED OR DISABLED VEHICLES

761—454.1(307,321) Definitions. For the purpose of Iowa Code section 321.463, the following definitions are established:

“*Tow*” means the transportation by a vehicle designed to tow or transport wrecked or disabled vehicles directly from the scene of a crash, disablement, or impoundment to any place of repair, storage, or safekeeping.

“*Wrecked or disabled vehicle*” means a vehicle upon a highway involved in a crash or having mechanical failure, broken parts, or other defects, any of which prevent the vehicle from moving safely under its own power, or any vehicle impounded by the order of a peace officer.

This rule is intended to implement Iowa Code sections 307.12(1)“j” and 321.463 and 23 U.S.C. § 141(a) and (b).

ARC 8477C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rulemaking related to sanctions
and providing an opportunity for public comment**

The Transportation Department hereby proposes to rescind Chapter 615, “Sanctions,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 252J.8, 307.12(1)“j,” 321.16, 321.208, 321.210, 321.210A, 321.210D, 321.211, 321.513 and 321.560 and sections 321.180B, 321.194(10) and 321.213B as amended by 2024 Iowa Acts, Senate File 2109.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A; sections 232.52(2), 321.1, 321.178, 321.180B, 321.191, 321.194 and 321.213B as amended by 2024 Iowa Acts, Senate File 2109; and sections 252J.1, 252J.8, 252J.9, 299.1B, 307.12(1)“j,” 321.16, 321.177, 321.178A through 321.180A, 321.181 through 321.190, 321.193, 321.195 through 321.201, 321.203 through 321.213A, 321.215, 321.216, 321.216C, 321.218, 321.261, 321.323A, 321.372, 321.445, 321.446, 321.491, 321.513, 321.555, 321.556, 321.560, 321A.4 through 321A.11, 321A.17, 321A.31, 321J.9, 321J.12, 321J.17, 321J.21 and 707.6A.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 615 in compliance with Executive Order 10. The Department is also proposing to align this chapter with 2024 Iowa Acts, Senate File 2109, related to special minor's restricted licenses and minor's restricted work licenses issued pursuant to Iowa Code sections 321.178 and 321.194. Proposed Chapter 615 establishes consistent requirements and transparency for the processes concerning all driver's license and driving privilege sanctions the Department is required or authorized to initiate under the Iowa Code (with the exception of commercial driver's license (CDL) disqualifications, operating while intoxicated (OWI) revocations, and financial responsibility law sanctions, which are covered in other applicable chapters). This chapter is intended to increase compliance with driver's license sanctions, which are by law intended to ensure highway safety.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 10, 2024

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 7, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 7, 2025 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 970 160 824
January 7, 2025 2 to 2:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 227 968 616

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 615 and adopt the following new chapter in lieu thereof:

CHAPTER 615
SANCTIONS

761—615.1(321) Definitions. The following definitions apply to this chapter:

“Accident free” as used in Iowa Code section 321.180B means the driver has not been involved in a contributive accident.

“Appropriate school authority” means the superintendent of a public school or the superintendent's designee; the chief administrator of an accredited nonpublic school, an alternative school, or an adult education program or designee; or the primary instructor of a student who receives competent private instruction or independent private instruction.

“Contributive accident” or *“contributed to an accident”* means the driver was involved in an accident for which there is evidence in departmental records that the driver performed an act which resulted in or contributed to the accident or failed to perform an act which would have avoided or contributed to the avoidance of the accident.

“Deny” or *“denial”* means a rejection of an application for a license or a refusal to issue, renew or reinstate a license.

“Involvement in a motor vehicle accident” as used in Iowa Code section 321.180B means involvement in a contributive accident.

“License” means “driver's license” as defined in Iowa Code section 321.1(20A) as amended by 2024 Iowa Acts, Senate File 2109, unless the context otherwise requires.

“Moving violation,” unless otherwise provided in this chapter, means any violation of motor vehicle laws except:

1. Violations of equipment standards to be maintained for motor vehicles.
2. Parking violations as defined in Iowa Code section 321.210.
3. Child restraint and safety belt and harness violations under Iowa Code sections 321.445 and 321.446.
4. Violations of registration, weight and dimension laws.
5. Operating with an expired license.
6. Failure to appear.
7. Disturbing the peace with a motor vehicle.
8. Violations of Iowa Code section 321.20B for failure to provide proof of financial liability coverage.

“Sanction” means a license denial, cancellation, suspension, revocation, bar or disqualification.

This rule is intended to implement Iowa Code sections 321.1, 321.178 and 321.194 as amended by 2024 Iowa Acts, Senate File 2109, and sections 321.180A, 321.189, 321.210, 321.215, 321.445, 321.446 and 321.555.

761—615.2(321,321A,321J) Scope. This chapter of rules applies to any license. However:

615.2(1) Additional rules addressing denial, cancellation or disqualification of a commercial driver's license are found in 761—Chapter 607, "Commercial Driver Licensing."

615.2(2) Rules implementing Iowa Code chapter 321J are found in 761—Chapter 620, "OWI and Implied Consent."

615.2(3) Rules implementing Iowa Code chapter 321A are found in 761—Chapter 640, "Financial Responsibility."

This rule is intended to implement Iowa Code chapters 321, 321A and 321J.

761—615.3(307) Information and address. Applications, forms and information concerning license sanctions are available at any driver's license service center or at www.iowadot.gov. Assistance is also available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; or by telephone at 515.244.9124.

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

761—615.4(321) Habitual offender.

615.4(1) A person is determined to be a habitual offender under Iowa Code section 321.555(1) in accordance with the following point system:

a. Points are assigned to convictions as follows:

<u>Conviction</u>	<u>Points</u>
Perjury or the making of a false affidavit or statement under oath to the department of public safety	2 points
Driving while under suspension, revocation or denial (except Iowa Code chapter 321J)	2 points
Driving while under Iowa Code chapter 321J revocation or denial	3 points
Driving while barred	4 points
Operating a motor vehicle in violation of Iowa Code section 321J.2	4 points
An offense punishable as a felony under the motor vehicle laws of Iowa or any felony in the commission of which a motor vehicle is used	5 points
Failure to stop and leave information or to render aid as required by Iowa Code sections 321.261 and 321.263	5 points
Eluding or attempting to elude a pursuing law enforcement vehicle in violation of Iowa Code section 321.279	5 points
Serious injury by a vehicle in violation of Iowa Code section 707.6A(4)	5 points
Manslaughter resulting from the operation of a motor vehicle	6 points

b. Based on the points accumulated, the person is to be barred from operating a motor vehicle on the highways of this state as follows:

<u>Points</u>	<u>Length of bar</u>
6 – 7	2 years
8 – 9	3 years
10 – 12	4 years
13 – 15	5 years
16+	6 years

615.4(2) A person declared to be a habitual offender under Iowa Code section 321.555(2) is to be barred from operating a motor vehicle on the highways of this state for one year.

615.4(3) A revocation under Iowa Code section 321.560 will begin on the date the previous revocation expires.

This rule is intended to implement Iowa Code sections 321.555, 321.556 and 321.560.

761—615.5(321) Suspension of a habitually reckless or negligent driver.

615.5(1) The department may suspend a person's license for at least 60 days if the person is a habitually reckless or negligent driver of a motor vehicle. "Habitually reckless or negligent driver" means a person who has accumulated a combination of three or more contributive accidents and convictions for moving violations or three or more contributive accidents within a 12-month period.

615.5(2) In this rule, speeding violations specified in Iowa Code section 321.210(2)"d" and violations under Iowa Code section 321.276 are not included.

This rule is intended to implement Iowa Code section 321.210.

761—615.6(321) Suspension of a habitual violator.

615.6(1) The department may suspend a person's license when the person is a habitual violator of the traffic laws. "Habitual violator" means that the person has been convicted of three or more moving violations committed within a 12-month period.

615.6(2) The minimum suspension periods are as follows unless reduced by a driver's license hearing officer based on mitigating circumstances:

3 convictions in 12 months	90 days
4 convictions in 12 months	120 days
5 convictions in 12 months	150 days
6 convictions in 12 months	180 days
7 or more convictions in 12 months	1 year

615.6(3) In this rule, speeding violations specified in Iowa Code section 321.210(2)"d" and violations under Iowa Code section 321.276 are not included.

This rule is intended to implement Iowa Code section 321.210.

761—615.7(321) Suspension or denial for incapability. A person who is physically or mentally incapable of safely operating a motor vehicle is subject to license suspension or denial by the department.

615.7(1) Suspension or denial for incapability may be based on one or more of the following:

a. Receipt of a medical report or vision report stating that the person is not physically or mentally capable of safely operating a motor vehicle.

b. Failure of the person to appear for a required reexamination or failure to submit requested information within the specified time.

c. Ineligibility for licensing under Iowa Code sections 321.177(4) through 321.177(7).

615.7(2) A suspension or denial under this rule will remain in effect until the department receives satisfactory evidence that the licensee has been restored to capability.

615.7(3) A person whose license has been suspended or denied for incapability may be eligible for a special noncommercial instruction permit under rule 761—602.21(321).

615.7(4) A person who has a valid Iowa license that would otherwise be suspended for incapability shall, in lieu of a suspension, be denied further licensing if there is less than 30 days' validity on the license.

a. The denial will take effect when the license is no longer valid.

b. The license shall be surrendered to the department. The department shall issue a temporary driving permit that allows the person to drive until the effective date of the denial.

615.7(5) If a person who is denied licensing for incapability does not have a valid Iowa license, the department may refuse orally to issue a license, effective immediately, or may deny licensing in writing, effective on the date the denial notice is served.

This rule is intended to implement Iowa Code sections 321.177, 321.210, 321.212 and 321.216.

761—615.8(321) Suspension for unlawful use of a license. The department may suspend a person's license upon receipt of a conviction or written law enforcement report that the person has permitted unlawful or fraudulent use of the license. The suspension period will be at least 30 but no more than 60 days.

This rule is intended to implement Iowa Code sections 321.210, 321.212 and 321.216.

761—615.9(321) Suspension or revocation for out-of-state offense. The department may suspend or revoke a person's license when the department is notified by another state that the person committed an offense in that state that, if committed in Iowa, would be grounds for suspension or revocation. The notice may indicate either a conviction or a final administrative decision. The period of the suspension or revocation is to be the same as if the offense had occurred in Iowa.

This rule is intended to implement Iowa Code sections 321.205 and 321.210.

761—615.10(321) Suspension for a serious violation.

615.10(1) The department may suspend a person's license when the person has committed a serious violation of the motor vehicle laws.

615.10(2) "Serious violation" means that:

a. The person's conviction for a moving violation was accompanied by a written report from the arresting officer, the prosecuting attorney or the court indicating that the violation was unusually serious. The suspension period will be at least 60 days.

b. The person was convicted of a moving violation that contributed to a fatal motor vehicle accident. The suspension period will be at least 120 days.

c. The person was convicted for speeding 25 miles per hour (mph) or more above the legal limit. The minimum suspension period is as follows unless reduced by the department based on mitigating circumstances:

25 mph over the legal limit	60 days
26 mph over the legal limit	65 days
27 mph over the legal limit	70 days
28 mph over the legal limit	75 days
29 mph over the legal limit	80 days
30 mph over the legal limit	90 days
31 mph over the legal limit	100 days
32 mph over the legal limit	110 days
33 mph over the legal limit	120 days
34 mph over the legal limit	130 days
35 mph over the legal limit	140 days
36 mph over the legal limit	150 days
37 mph over the legal limit	160 days
38 mph over the legal limit	170 days
39 mph over the legal limit	180 days
40 mph over the legal limit	190 days
41 mph over the legal limit	210 days
42 mph over the legal limit	230 days
43 mph over the legal limit	250 days

44 mph over the legal limit	270 days
45 mph over the legal limit	290 days
46 mph over the legal limit	310 days
47 mph over the legal limit	330 days
48 mph over the legal limit	350 days
49 mph or more over the legal limit	one year

d. The person was convicted of violating Iowa Code section 321.372(3) or a similar ordinance of any political subdivision. The suspension period will be:

- (1) 30 days for a first conviction.
- (2) 90 days for a second conviction.
- (3) 180 days for a third or subsequent conviction.

e. The person was convicted of violating Iowa Code section 321.323A or a similar ordinance of any political subdivision. The suspension period is established in Iowa Code section 321.323A(4) “c.”

This rule is intended to implement Iowa Code sections 321.210, 321.323A, 321.372 and 321.491.

761—615.11(321) Suspension under the nonresident violator compact. The department may suspend a person’s license when a report is received from another state under the nonresident violator compact that an Iowa licensee has failed to comply with the terms of a traffic citation. The suspension will continue until the department receives evidence of compliance with the terms of the citation, at which point the department shall issue a notice terminating the suspension.

This rule is intended to implement Iowa Code sections 321.210 and 321.513.

761—615.12(17A,321) Suspension for a charge of vehicular homicide; hearing and appeal process.

615.12(1) The department shall suspend a person’s license when the department receives notice from the clerk of the district court that an indictment or trial information has been filed charging the person with homicide by vehicle under Iowa Code section 707.6A(1) or 707.6A(2). The suspension takes effect ten days after the department’s suspension notice is issued.

615.12(2) In a contested case hearing, the sole issue is whether there is a possibility of a judgment being rendered against the person for homicide by vehicle under Iowa Code section 707.6A(1) or 707.6A(2). A suspension under this subrule will be upheld if there is evidence in department records that the indictment or trial information was found or approved by a grand jury, magistrate, or judge.

This rule is intended to implement Iowa Code chapter 17A and section 321.210D.

761—615.13(307,321) Suspension of a special minor’s restricted license and minor’s restricted work license.

615.13(1) *Suspension of a special minor’s restricted license.*

a. Suspensions issued under Iowa Code section 321.194(7) as amended by 2024 Iowa Acts, Senate File 2109, may be concurrent. Each suspension requires a separate three-month waiting period pursuant to Iowa Code section 321.194(7) “b” as amended by 2024 Iowa Acts, Senate File 2109.

b. A written report submitted to the department by a peace officer, parent, guardian, custodian, or appropriate school authority will constitute evidence that the licensee violated the restrictions of the license.

c. A suspension issued under this subrule terminates when the person attains age 18.

615.13(2) *Suspension of a minor’s restricted work license.* The department may suspend a minor’s restricted license for at least 30 days upon receiving notice of the licensee’s conviction for one moving violation or evidence that the licensee has violated the license restrictions.

This rule is intended to implement Iowa Code section 307.12(1) “j” and sections 321.178 and 321.194 as amended by 2024 Iowa Acts, Senate File 2109.

761—615.14(321) Suspension for nonpayment of fine, penalty, surcharge or court costs.

615.14(1) A suspension issued by the department under Iowa Code section 321.210A shall continue until the department receives notice from a clerk of the district court that all appropriate payments have been made, the person has entered into an executed installment agreement under Iowa Code section 321.210B, or the notice to suspend was submitted in error. Upon receipt of such notice, the department shall terminate the suspension.

615.14(2) An informal settlement, hearing or appeal to contest the suspension is limited to a determination of whether the facts required by Iowa Code section 321.210A and this subrule are true. The merits of the conviction will not be considered.

This rule is intended to implement Iowa Code sections 321.210A and 321.210B.

761—615.15(232,299,307,321) Suspensions for juveniles.

615.15(1) *Suspension for juveniles adjudicated delinquent for certain offenses.*

a. Pursuant to Iowa Code section 321.213A, the department will suspend the license of a person for one year upon receipt of an adjudication and dispositional order from the clerk of the juvenile court.

b. The department may issue to a person suspended under this subrule a temporary restricted license in accordance with rule 761—615.28(321) if issuance is permitted under Iowa Code section 321.215 and the person is otherwise eligible for the license. To obtain a temporary restricted license that is valid for educational or employment purposes, the applicant must meet the requirements for issuance of a special minor's restricted license under Iowa Code section 321.194 as amended by 2024 Iowa Acts, Senate File 2109, and rule 761—602.26(321).

615.15(2) *Suspension for juvenile's failure to attend school.*

a. The department shall suspend the driver's license of a person of compulsory age upon receipt of notification from the appropriate school authority that the person is in violation of Iowa Code section 299.1B.

b. The suspension will continue until the person reaches the age of 18 or the department receives notification from the appropriate school authority that the person is no longer in violation of Iowa Code section 299.1B.

c. The department may issue to the person a minor's restricted work license pursuant to Iowa Code section 321.178 as amended by 2024 Iowa Acts, Senate File 2109, and rule 761—602.25(321) if the person is eligible for the license.

This rule is intended to implement Iowa Code sections 232.52(2), 321.178 and 321.213B as amended by 2024 Iowa Acts, Senate File 2109, and sections 299.1B; 307.12(1)“j,” 321.213, 321.213A and 321.215.

761—615.16(252J) Suspension upon receipt of a certificate of noncompliance.

615.16(1) *From child support recovery unit.*

a. The department shall suspend a person's Iowa-issued driver's license upon receipt of a certificate of noncompliance from the child support recovery unit.

b. The suspension shall continue until receipt of a withdrawal of the certificate of noncompliance from the child support recovery unit.

c. The filing of an application pursuant to Iowa Code section 252J.9 stays the suspension pending the outcome of the district court hearing.

615.16(2) Reserved.

This rule is intended to implement Iowa Code sections 252J.1, 252J.8 and 252J.9.

761—615.17(307,321) Suspension for violation of a license restriction. The department may suspend a person's license when the department receives satisfactory evidence of a violation of a restriction imposed on the license. The suspension period is at least 30 days for the first violation and at least 90 days for subsequent violations.

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

761—615.18(307,321,707) Mandatory revocation.

615.18(1) A revocation issued by the department pursuant to Iowa Code section 321.209 shall be at least one year except as provided in Iowa Code section 321.212.

615.18(2) For purposes of issuing a revocation under Iowa Code section 321.209(2), “felony” includes a conviction that meets at least one of the following criteria:

- a. The record provides specific factual findings by the court that a motor vehicle was used in the commission of the offense,
- b. The record is accompanied by information from the prosecuting attorney indicating that a motor vehicle was used in the commission of the crime, or
- c. The record indicates that the elements of the offense actually required the use of a motor vehicle.

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.209, 321.212, 321.261 and 707.6A.

761—615.19(307,321J) Extension of suspension or revocation period under Iowa Code chapter 321J. The department is to extend the period of license suspension or revocation for an additional like period when the person is convicted of operating a motor vehicle while the person’s license is suspended or revoked under Iowa Code chapter 321J.

This rule is intended to implement Iowa Code sections 307.12(1) “j” and 321J.21.

761—615.20(321) Effective date of sanction. Unless otherwise specified by statute or rule, a suspension, revocation, disqualification or bar shall begin 30 days after the department’s notice of such action is served. However, a cancellation issued by the department under Iowa Code section 321.184, 321.185, 321.189 or 321.201 or section 321.191 as amended by 2024 Iowa Acts, Senate File 2109, will take effect ten days after the department’s notice of cancellation is served.

This rule is intended to implement Iowa Code sections 321.208, 321.209, 321.210 and 321.556.

761—615.21(321,321J,331) Service of notice.

615.21(1) The department shall send a notice of a sanction by first-class mail to the person’s mailing address as shown on departmental records.

615.21(2) In lieu of service by mail, the notice may be delivered by a peace officer, a departmental employee, or any person over 18 years of age.

a. The person serving the notice shall prepare a certificate of personal service certifying delivery, specifying the name of the receiver, the address and the date, or certifying nondelivery.

b. The department will pay fees for personal service of notice by a sheriff as specified in Iowa Code section 331.655. The department may also contract for personal service of notice when the department determines that it is in the best interests of the state.

615.21(3) The sanction shall become effective on the date specified in the notice.

615.21(4) 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.

This rule is intended to implement Iowa Code sections 321.16, 321.211, 321.211A, 321.556, 321J.9, 321J.12 and 331.655.

761—615.22(17A,321,321J) Hearing and appeal process.

615.22(1) *Applicability.* This rule applies to:

a. License denials, cancellations and suspensions under Iowa Code sections 321.177 through 321.215 and 321A.4 through 321A.11 except suspensions under Iowa Code section 321.213A and section 321.213B as amended by 2024 Iowa Acts, Senate File 2109.

b. License suspensions and revocations under Iowa Code sections 321.218 and 321J.21.

c. License revocations under Iowa Code sections 321.193 and 321.205.

d. Disqualifications from operating a commercial motor vehicle under Iowa Code section 321.208.

e. License bars under Iowa Code section 321.556.

615.22(2) *Submission of request.*

a. A person subject to a sanction listed in subrule 615.22(1) may contest the action by following the provisions of 761—Chapter 13 as supplemented by this rule.

b. A person may request an informal settlement, a contested case hearing, or an appeal of a presiding officer's decision by submitting a request in writing to the motor vehicle division at the address in rule 761—615.3(17A).

c. The request is to include the person's name, date of birth, driver's license or permit number, mailing address and telephone number and the name, address and telephone number of the person's attorney, if any.

d. A request for an informal settlement or a request for a contested case hearing will be deemed timely submitted if it is delivered to the motor vehicle division or postmarked within the time period specified in the department's notice of the sanction.

(1) Unless a longer time period is specified in the notice or another time period is specified by statute or rule, the time period will be 20 days after the notice is served.

(2) However, a request to appeal a sanction under rule 761—615.7(321) or a denial of a license may be submitted at any time.

615.22(3) *Informal settlement or hearing.*

a. The person may request an informal settlement. Following an unsuccessful informal settlement procedure, or instead of that procedure, the person may request a contested case hearing.

b. Notwithstanding paragraph 615.22(3)“*a*,” a request received from a person who has participated in a driver improvement interview on the same matter shall be deemed a request for a contested case hearing.

615.22(4) *Appeal.* A request to appeal a presiding officer's decision shall be submitted in accordance with 761—subrule 13.5(3).

615.22(5) *Stay of sanction.*

a. Upon receipt of a properly submitted, timely request under this rule, the department will review its records to determine whether the sanction may be stayed pending the outcome of the settlement, hearing or appeal unless prohibited by statute or rule or unless otherwise requested by the requester/appellant.

(1) If the stay is granted, the department will send a notice indicating the effective date of the stay. The notice allows the person to drive while the sanction is stayed if the license is valid and no other sanction is in effect.

(2) A person whose stay authorizes driving privileges shall carry the notice of stay at all times while driving.

b. Of the sanctions listed in subrule 615.22(1), the department shall not stay the following, and the person's driving privileges do not continue:

(1) A suspension for incapability.

(2) A denial.

(3) A disqualification from operating a commercial motor vehicle.

(4) A suspension under Iowa Code section 321.180B.

(5) A suspension or revocation under Iowa Code section 321.218 or 321J.21.

This rule is intended to implement Iowa Code chapter 17A and sections 321.177 through 321.215, 321.218, 321.556, 321A.4 through 321A.11 and 321J.21.

761—615.23(307,321,321A) Surrender of license. A person whose Iowa license has been sanctioned shall surrender the license to the designated representative of the department on or before the effective date of the sanction.

This rule is intended to implement Iowa Code sections 307.12(1)“*j*,” 321.201, 321.208, 321.210D, 321.212, 321.216, 321.556 and 321A.31.

761—615.24(321,321A,321J) License reinstatement or reissue. The department may reinstate the license when the sanction has ended if the person is otherwise eligible for issuance of the license and the person has:

615.24(1) Filed proof of financial responsibility under Iowa Code chapter 321A, when required, for all vehicles to be operated. Only the motor vehicles covered under the proof of financial responsibility filed by the applicant may be operated.

615.24(2) Paid the civil penalty when required by Iowa Code section 321J.17.

615.24(3) Complied with the specific instructions given in the department's notice terminating the sanction.

615.24(4) Successfully completed any required driver license examinations.

615.24(5) Paid the reinstatement fee under Iowa Code section 321.191 when required.

615.24(6) Paid the appropriate license fee or duplicate license fee under Iowa Code section 321.191 as amended by 2024 Iowa Acts, Senate File 2109, and section 321.195.

This rule is intended to implement Iowa Code sections 321.186, 321.195, 321.208, 321.212, 321A.17 and 321J.17 and 321.191 as amended by 2024 Iowa Acts, Senate File 2109.

761—615.25(321) Investigation of convictions based on fraud. A person requesting investigation of fraudulent use of a person's name or other fraudulent identification that resulted in a record of conviction for a scheduled violation under Iowa Code chapter 321 and listed in Iowa Code section 805.8A may submit a written application to the department using Form 420049. The department will review the application and determine whether investigation is warranted under Iowa Code section 321.200A.

This rule is intended to implement Iowa Code section 321.200A.

761—615.26(321) Remedial driver improvement.

615.26(1) Pursuant to Iowa Code section 321.180B(3) "a," remedial driver improvement action means any or all of the following as determined by the department: suspension, safety advisory letter, additional restriction(s), safety consultation, educational program, knowledge examination, or driving examination.

615.26(2) A suspension period under Iowa Code section 321.180B(3) shall be at least 30 days for the first violation, at least 60 days for the second violation, and at least 90 days for a third or subsequent violation. A person whose driving privilege has been suspended under this rule is not eligible for a temporary restricted license.

615.26(3) Any action under this rule terminates when a person attains the age of 18.

This rule is intended to implement Iowa Code section 321.180B.

761—615.27(307,321) Driver improvement program.

615.27(1) *When required.*

a. In lieu of suspension, the department may require the following persons to attend and successfully complete, at the person's own expense, a driver improvement program approved by the department:

(1) A habitual violator.

(2) A person who is convicted for speeding at least 25 but not more than 29 miles per hour over the legal limit.

(3) A person whose license is subject to suspension under Iowa Code section 321.210C.

(4) A person who is convicted of a first offense violation of Iowa Code section 321.372(3) or a similar ordinance of any political subdivision.

b. However, a person is not eligible to attend a driver improvement program in lieu of suspension more than once within a two-year period.

615.27(2) Scheduling. The department shall forward the person's contact information to the approved driver improvement program provider nearest the person's last known address. The provider will schedule the person's attendance at the provider's next available program opening.

a. One request for rescheduling may be granted by the provider if the program begins within 30 days of the originally scheduled date and if space is available.

b. A request to attend a program in another state may be granted if the curriculum is approved by the department.

615.27(3) Probation. When a person is required to attend and successfully complete a driver improvement program, the person must immediately thereafter complete a one-year probationary driving period. The department may suspend the person's license upon receipt of one conviction for a moving violation committed by the person during the probationary period. The suspension period will be for the length of the original underlying suspension.

615.27(4) Failure to attend. The department shall suspend the license of a person who is required to attend a driver improvement program and who does not attend, or does not successfully complete, the program. The suspension period will be for the length of the original underlying suspension.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.210, 321.210C and 321.372.

761—615.28(252J,307,321,321J) Temporary restricted license (work permit).

615.28(1) A person is not eligible for a temporary restricted license under Iowa Code section 321.215 if the person is subject to the following sanctions:

- a. License denial or cancellation.
- b. License suspension for incapability.
- c. License suspension for noncompliance with the financial responsibility law.
- d. Suspension or revocation of a special minor's restricted license or minor's restricted work license.
- e. License revocation under Iowa Code section 321.209(1) through 321.209(4) or revocation for a second or subsequent conviction for drag racing.
- f. License bar under Iowa Code section 321.560 unless the applicant is declared to be a habitual offender under Iowa Code section 321.555(1)“c” or 321.555(2).
- g. License suspension under Iowa Code section 252J.8.
- h. License suspension under Iowa Code section 321.180B(3).

615.28(2) Application for a temporary restricted license is to be made online at www.iowadot.gov/mvd/driverslicense/Suspensions-and-Revocations#TempRL or using Form 430100 and submitted to the motor vehicle division at the address in rule 761—615.3(17A).

615.28(3) The application is to be accompanied by supporting documentation signed by each entity able to attest to the applicant's eligibility for each requested purpose authorized under Iowa Code section 321.215(1)“a”(1) through 321.215(1)“a”(6). An applicant under Iowa Code section 321.215(1)“a”(5) must also submit a copy of the court order for community service. Acceptable statements will explain the need for the license and list specific places and times for the activity that can be verified by the department.

615.28(4) A temporary restricted license issued for employment may include permission for the licensee to transport dependent children or adults between the licensee's residence and a child or dependent adult care location, provided the care is essential for continuation of the licensee's employment and the application includes a signed statement from the care provider.

615.28(5) An applicant for a temporary restricted license is also required to do all of the following:

- a. File proof of financial responsibility under Iowa Code chapter 321A, if required, for all motor vehicles to be operated under the temporary restricted license.
- b. Pay the civil penalty when required by Iowa Code section 321J.17.
- c. Pass the appropriate examination for the type of vehicle to be operated under the temporary restricted license.
- d. Pay any applicable reinstatement and license fees.

615.28(6) The department will determine the restrictions to be imposed by the temporary restricted license based on the documents submitted. The licensee may apply at any time to the department in writing with a justification for any requested change in license restrictions.

615.28(7) An applicant who has been denied a temporary restricted license or who contests the license restrictions imposed by the department may contest the decision in accordance with rule 761—615.22(321).

This rule is intended to implement Iowa Code chapter 321A; sections 252J.8, 307.12(1)“j,” 321.177, 321.184, 321.185, 321.186, 321.189, 321.193, 321.195, 321.201, 321.205, 321.209, 321.210, 321.210A, 321.212, 321.213A, 321.215, 321.218, 321.513, 321.560 and 321J.17; and sections 321.178, 321.191, 321.194 and 321.213B as amended by 2024 Iowa Acts, Senate File 2109.

ARC 8470C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to driver education and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 634, “Driver Education,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)“j,” 321.178 and 321.178A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321.13, 321.178, 321.178A, 321.180B and 321.194.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 634 in compliance with Executive Order 10. Proposed Chapter 634 implements the Department’s rulemaking authority granted in Iowa Code section 321.178, which explains driver education course requirements for school districts and private and commercial driver education schools, including the qualification, application, and certification requirements for behind-the-wheel instructors. The proposed chapter also implements Iowa Code section 321.178A, which explains the requirements for a teaching parent to provide driver education as an alternative to a driver education course offered by a course provider.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 25, 2024

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 9, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 9, 2025 9 to 9:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 824 420 750
January 9, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 668 291 488

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 634 and adopt the following **new** chapter in lieu thereof:

CHAPTER 634
DRIVER EDUCATION

761—634.1(321) Information and location. Applications, forms and information regarding this chapter are available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Boulevard, Ankeny, Iowa 50021; by telephone at 515.244.8725; by facsimile at 515.239.1837; or on the department's website at www.iowadot.gov/mvd/drivereducation.

761—634.2(321) Definitions.

“Approved course” means a driver education curriculum approved by the department that meets the requirements of Iowa Code section 321.178A and is appropriate for teaching parent-directed driver education and related behind-the-wheel instruction.

“Behind-the-wheel instruction” means the street or highway driving instruction component of an approved driver education course.

“Clear driving record” means the person currently and during the prior two-year period has not been identified as a candidate for suspension or revocation of a driver’s license under the habitual offender or habitual violator provisions of rule 761—615.4(321) or rule 761—615.6(321); is not subject to a driver’s license suspension, revocation, denial, cancellation, disqualification, or bar; has no record of a contributive motor vehicle accident that caused the death or serious injury of another person; and has no record of two or more contributive motor vehicle accidents in a two-year period.

“Course vendor” means a third-party vendor that makes available commercially an approved course.

“Driver education school” means any school district, area education agency, merged area school, or other agency or person planning to offer driver education.

“Instructor,” for purposes of this chapter, means a person certified to provide behind-the-wheel instruction.

“Laboratory instruction” includes instruction received by a student while the student is in the driver education vehicle or adjacent to it as referred to in paragraphs 634.3(2) “c” and “d” and may also include range or simulation as referred to in paragraphs 634.3(2) “h” and “i.”

“Serious injury” means the same as defined in Iowa Code section 702.18.

“Student” means the same as defined in Iowa Code section 321.178(1) “d.”

“Teacher” means the same as defined in Iowa Code section 256.145(16).

“Teaching parent” means the same as defined in Iowa Code section 321.178A(2) “c.”

761—634.3(321) Driver education course standards and requirements.

634.3(1) *Course approval.* Any school district, area education agency, merged area school, or other entity planning to offer a driver education course must apply for and receive departmental approval, including approval of all teachers, instructors, and course curriculum. Approvals remain valid for a calendar year, expiring December 31, and must be renewed annually. The application for course renewal shall be submitted to the department within 60 days of the expiration date unless otherwise approved by the department.

634.3(2) *Course requirements.*

a. The instruction provided under Iowa Code section 321.178(1) “a” is to be performed in a dual-controlled motor vehicle and exclusive of observation time.

b. Except upon showing of good cause, laboratory instruction shall not conclude later than 45 days after classroom instruction has been completed. When the driver education course provider determines there is good cause, the laboratory instruction shall not conclude later than 90 days after classroom instruction has been completed. For the purpose of this paragraph, “good cause” means an unanticipated event causing a delay in the student’s ability to complete the laboratory instruction if the event is beyond the student’s control.

c. Behind-the-wheel instruction shall be limited to a maximum of 30 minutes per student per session and a maximum of 60 minutes in a single day.

d. Two or more students shall be scheduled for all behind-the-wheel instruction to ensure that appropriate observation time is experienced.

e. Routine maintenance and operation of motor vehicles to maximize energy efficiency and safety will be included in classroom instruction.

f. Each school district will provide students who are absent from instruction an opportunity to make up a reasonable amount of time and coursework.

g. When driving simulators are used for part of the behind-the-wheel driving experience, four hours of simulator experience will be considered equal to one hour of behind-the-wheel driving in the car. However, in addition to simulator time, a minimum of three hours of on-street, behind-the-wheel driving must be completed.

h. When driving ranges are used in driver education courses, two hours of range experience will be considered equal to one hour of on-street, behind-the-wheel driving. However, in addition to range time, a minimum of three hours of on-street, behind-the-wheel driving must be completed.

i. Motor vehicles that are designed primarily for carrying nine or fewer occupants, excluding motorcycles and mopeds, are the only motor vehicles approved for use in driver education courses, and each shall be equipped with a dual control. Vehicles must bear a manufacturer's label pursuant to 49 CFR §567.4 effective as of October 1, 2023.

j. The driver education teacher or instructor is to verify at the beginning of each course that each student possesses a valid instruction permit or driver's license. Each student is responsible for possessing an instruction permit or driver's license throughout all laboratory instruction and is to report any suspension, revocation or cancellation of the instruction permit or driver's license to the driver education teacher or instructor prior to attending laboratory instruction.

634.3(3) *Experimental program.* The department may approve an experimental program based on student or school district need for improved instruction. The maximum duration of an experimental program is three years. Annual documentation of the effectiveness of instruction must be submitted to the department.

761—634.4(321) Instructor qualifications, application, and certification.

634.4(1) *Behind-the-wheel instructor qualifications.* Behind-the-wheel instructors must:

a. Hold a valid driver's license that permits unaccompanied driving, other than a motorized bicycle license or a temporary restricted license.

b. Have a clear driving record for the previous two years.

634.4(2) *Behind-the-wheel instructor's certification requirements.* Except as otherwise provided in this chapter, the following requirements apply to a behind-the-wheel instructor:

a. An applicant for a behind-the-wheel instructor's certification will apply to the department using Form 431160.

(1) An initial behind-the-wheel instructor's certification is to be submitted annually within 60 days of the expiration date unless otherwise approved by the department. The instructor approval expires on December 31 but remains valid for an additional 30 days after the expiration date.

(2) To renew a behind-the-wheel instructor's certification, a person will do all of the following:

1. Apply to the department annually. Instructor approval is valid for a calendar year or the remainder of a calendar year. The instructor approval expires on December 31 but remains valid for an additional 30 days after the expiration date. An application for renewal of instructor approval shall be submitted within 60 days of the expiration date unless otherwise approved by the department.

2. Provide behind-the-wheel instruction for a minimum of 12 clock hours during each calendar year.

b. A behind-the-wheel instructor will complete at least one state-sponsored or state-approved behind-the-wheel instructor refresher course biennially. Approved courses may include electronic completion or remote attendance options. The department may develop a special course for licensed teachers or peace officers who qualify to provide behind-the-wheel instruction under subrule 634.4(3) or 634.4(5).

c. Upon certification, but prior to providing behind-the-wheel instruction, the person will be:

(1) Authorized by the Iowa board of educational examiners to provide behind-the-wheel driving instruction unless exempt under Iowa Code section 321.178.

(2) Employed by a public or licensed commercial or private provider of the approved driver education course.

634.4(3) *Instructor's certification for licensed teachers.* A teacher licensed by the Iowa board of educational examiners as provided in 282—subrule 13.28(4) will be included as an approved instructor on an annual driver education course approval as referenced in subrules 634.3(1) and 634.6(1) and shall meet the requirements in paragraph 634.4(2) "b" to be certified by the department to provide behind-the-wheel instruction.

634.4(4) *Instructor application and certification for a teacher with an expired teacher's license.* A teacher who holds an expired initial, standard, exchange, or master educator license with an endorsement for driver education as provided in 282—subrule 13.28(4) shall meet the requirements in subrule 634.4(2) to be certified by the department to provide behind-the-wheel instruction.

634.4(5) *Instructor application and certification for active peace officers and retired peace officers.*

a. An applicant for behind-the-wheel instructor certification who is an active peace officer or a retired peace officer as referenced in Iowa Code section 321.178 shall:

- (1) Be at least 25 years of age.
- (2) Submit Form 431233 certifying the person's status as an active or retired peace officer.
- (3) Meet all other requirements of subrule 634.4(2), except peace officers or retired peace officers who otherwise qualify under this subrule are not required to meet the requirement of subparagraph 634.4(2)“c”(1).

b. A retired peace officer is only required to submit Form 431233, required under paragraph 634.4(5)“a,” to the department once unless the form is invalid or not accepted by the department.

634.4(6) *Instructor application and certification for persons other than licensed teachers, peace officers or retired peace officers.* A person who is not licensed by the Iowa board of educational examiners to provide classroom driver education as provided in 282—subrule 13.28(4), who does not hold an expired teacher's license as referenced in subrule 634.4(4), or who is not a peace officer or a retired peace officer as referenced in Iowa Code section 321.178 must satisfy all of the following to be certified by the department to provide behind-the-wheel instruction:

- a.* Be at least 25 years of age.
- b.* Meet the requirements in subrule 634.4(2).
- c.* Successfully complete a department-approved instructor preparation course within 12 months of application for behind-the-wheel instruction certification. The instructor preparation course will:
 - (1) Be a driver education teacher preparation program that is designed to observe, coach, and evaluate behind-the-wheel instructor candidates.
 - (2) Be approved by the Iowa board of educational examiners.
 - (3) Consist of 24 hours of classroom instruction in sessions not exceeding 4 hours that covers, at minimum, the psychology of the young driver, behind-the-wheel teaching techniques, and driving route selection.
 - (4) Consist of 12 hours of behind-the-wheel instruction in sessions not exceeding 4 hours in a dual-controlled vehicle with a licensed driver education instructor.

634.4(7) *Behind-the-wheel certification—reissuance.*

a. Completion of the behind-the-wheel instructor preparation course will be required to re-issue a behind-the-wheel instructor certification that has expired and is past the renewal date unless the applicant has:

- (1) Held a valid behind-the-wheel certification within the two years immediately preceding the application.
- (2) Provided a minimum of 12 clock hours of behind-the-wheel instruction within the two years immediately preceding the application.
- (3) Completed at least one state-sponsored or state-approved behind-the-wheel instructor refresher course within the two calendar years immediately preceding the application unless otherwise exempt under this chapter.
- (4) Completed a minimum of 12 clock hours shadowing a teacher licensed by the Iowa board of educational examiners as provided in 282—subrule 13.28(4) through a department-approved driver education program within 90 days immediately preceding the application.

b. Upon recertification but prior to providing behind-the-wheel instruction, the person will:

- (1) Be authorized by the Iowa board of educational examiners to provide behind-the-wheel driving instruction unless otherwise exempt under this chapter.

(2) Be employed by a public or licensed commercial or private provider of the approved driver education course and work under the supervision of a person licensed by the Iowa board of educational examiners as provided in 282—subrule 13.28(4).

761—634.5(321) Instructor disqualification, investigation, and cancellation.

634.5(1) *Disqualifications.* A person will be disqualified by the department from certification as a behind-the-wheel driving instructor for any of the reasons for which the chair of the Iowa board of educational examiners would deny an application for licensure, certification or authorization as provided in rule 282—11.35(256).

634.5(2) *Investigation.* The department may investigate an applicant for a behind-the-wheel instructor's certification or an instructor to determine if the applicant or instructor meets the requirements for certification. The investigation may include but is not limited to an inquiry into the applicant's or instructor's criminal history from the department of public safety.

634.5(3) *Cancellation.* The department shall cancel the behind-the-wheel instructor's certification of an individual who no longer qualifies under this chapter.

761—634.6(321) Private and commercial driver education schools. The department licenses private and commercial driver education schools as follows:

634.6(1) *Course approval.* A driver education school will receive course approval, which includes approval of all teachers and instructors listed on the application, from the department prior to the beginning of the first class that is offered and annually thereafter. Behind-the-wheel instruction must be provided by a person who meets the instructor requirements in rule 761—634.4(321). Evidence of the approvals and certifications will be submitted to the department upon application for a license, upon renewal of a license, and upon reinstatement of a license following cancellation.

634.6(2) *Application and fees.* Application for license issuance or renewal is \$25. The fee will be made to the department in a manner determined by the department.

634.6(3) *Issuance and renewal.* A license to teach driver education shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 but remains valid for an additional 30 days after the expiration date. The application for renewal will be submitted to the department within 60 days of the expiration date unless otherwise approved by the department.

634.6(4) *Cancellation.* A license to teach driver education shall be canceled if the course, teacher, or instructor is no longer approved or the person providing only behind-the-wheel instruction for driver education is no longer certified by the department and authorized by the Iowa board of educational examiners.

761—634.7(321) Driver education—teaching parent. As an alternative to a driver education course offered by a course provider approved under rule 761—634.3(321), a teaching parent may instruct a student in an approved course of driver education.

634.7(1) *Instruction by a teaching parent.*

a. A teaching parent will instruct the student using an approved course.
b. The teaching parent will select the course to be used from the list of approved courses posted at www.iowadot.gov/mvd/driverseducation/Parent-taught/Step-2 and will purchase the course directly from the applicable course vendor.

c. No person will provide driver education as a teaching parent unless the person meets the definition of a teaching parent, and the department will not recognize driver education that was:

- (1) Provided by a person who does not meet the definition of a teaching parent.
- (2) Provided to a person who is not a student as defined in rule 761—634.2(321).
- (3) Offered under a course other than an approved course.

634.7(2) *Course completion—certificate of completion.*

a. Upon the student's completion of an approved course, the teaching parent will apply for a certificate of completion on behalf of the student pursuant to Iowa Code section 321.178A.

b. The department will deny issuance of a certificate of completion if:

- (1) The course was not conducted by a person meeting the definition of a teaching parent.

(2) The application does not properly identify a student eligible to be instructed in driver education by the teaching parent.

(3) The application and evidence do not demonstrate the student's successful completion of an approved course.

(4) The application and evidence do not include all documentation, statements, certifications, and logs required by Iowa Code section 321.178A in adequate and proper form and content.

(5) The department has determined that the application should be rejected for any reason listed in Iowa Code section 321.13.

c. If the application is denied, the department will issue a letter of denial to the teaching parent explaining the reason for the denial.

d. If the application is approved, the department will issue a certificate of completion to the student. A certification of completion issued by the department under this subrule constitutes proof of successful completion of an Iowa-approved course in driver education but shall not be grounds for waiver of a driving test under 761—subrule 604.31(2).

634.7(3) *Course approval.*

a. For a course to become an approved course under Iowa Code section 321.178A, a vendor of a driver education curriculum will submit an application on a form provided by the department to the address in rule 761—634.1(321), along with a copy of all proposed curriculum materials.

b. To be designated as an approved course, the curriculum submitted must, at a minimum, meet the requirements of Iowa Code section 321.178A, be appropriate for teaching-parent-directed driver education and related street or highway instruction, and meet or exceed the required content set forth in the Appendix to this rule.

c. If the proposed curriculum does not meet the requirements for an approved course, the department will issue a letter of denial to the course vendor explaining the reason for denial.

d. If the proposed curriculum is approved, the department will issue a certificate of approval to the vendor designating the curriculum as an approved course and will list the approved course on the department's website. Course approval will be issued for one calendar year or for the remainder of a calendar year. The approval expires on December 31 and must be renewed annually by the submission of an application on a form provided by the department and all required materials as set forth in this subrule at least 60 days prior to the expiration date unless otherwise approved by the department.

These rules are intended to implement Iowa Code sections 321.13, 321.178, 321.178A, 321.180B and 321.194.

Appendix to Rule 761—634.7(321)

To be designated as an approved course, a curriculum must, at a minimum, meet the requirements of Iowa Code section 321.178A, be appropriate for teaching-parent-directed driver education and related street or highway instruction, and meet or exceed the required content listed below:

1. *Duration and required content.* The course must provide for both classroom and behind-the-wheel instruction. As used in this rule, “*classroom instruction*” means instruction provided by a teaching parent in a private setting using printed or electronic course materials, and “*behind-the-wheel instruction*” means street or highway driving instruction provided by a teaching parent or a person who is qualified to provide street or highway driving instruction pursuant to Iowa Code section 321.178 in a motor vehicle operated by the student.
 - a. Classroom instruction shall include all of the following:
 - i. Instruction concerning distracted driving and substance abuse.
 - ii. Instruction concerning railroad crossing safety.
 - iii. Instruction relating to becoming an organ donor under the revised uniform anatomical gift Act as provided in Iowa Code chapter 142C.
 - iv. Instruction providing awareness about sharing the road with pedestrians, bicycles and motorcycles.
 - b. Behind-the-wheel instruction shall consist of at least 40 hours of street or highway driving, including 4 hours of driving after sunset and before sunrise while accompanied by the teaching parent or a person who is qualified to provide street or highway driving instruction pursuant to Iowa Code section 321.178.
2. *Required topics.* The course may follow any format the vendor determines, provided all of the following topics are properly and adequately covered, as detailed in the course application form provided by the department:
 - a. Traffic law – *classroom instruction*
 - i. Introduction to driver education and driving laws and privileges.
 - ii. Understanding your license to drive.
 - iii. Right-of-way.
 - iv. Traffic control devices.
 - v. Controlling traffic flow.
 - vi. Alcohol and other drugs.
 - vii. Cooperating with other roadway users.
 - b. Driver preparation – *classroom and behind-the-wheel instruction*
 - i. Pre-drive tasks.
 - ii. Occupant protection.
 - iii. Symbols and devices.
 - iv. Starting tasks.
 - v. Vehicle operation and control tasks.
 - vi. Post-drive tasks.
 - vii. In-car progress assessment.
 - viii. Driving plan (*classroom instruction*).
 - c. Vehicle movements – *classroom and behind-the-wheel instruction*
 - i. Visual attention, mental attention and communication.
 - ii. Reference points.
 - iii. Vehicle balance.

- iv. Vehicle maneuvers.
 - v. In-car progress assessment (*behind-the-wheel instruction*).
- d. Driver readiness – *classroom and behind-the-wheel instruction*
 - i. Driving practices.
 - ii. Fatigue.
 - iii. Aggressive driving.
 - iv. In-car progress assessment (*behind-the-wheel instruction*).
- e. Risk reduction – *classroom and behind-the-wheel instruction*
 - i. Risk factors.
 - ii. Space management.
 - iii. In-car progress assessment (*behind-the-wheel instruction*).
- f. Environmental factors – *classroom and behind-the-wheel instruction*
 - i. Environmental characteristics.
 - ii. Environmental risk factors.
 - iii. In-car progress assessment (*behind-the-wheel instruction*).
- g. Distractions – *classroom and behind-the-wheel instruction*
 - i. Distractions.
 - ii. Multi-task performances.
 - iii. In-car progress assessment (*behind-the-wheel instruction*).
- h. Alcohol and other drugs – *classroom instruction*
 - i. Introduction of alcohol and other drug problems.
 - ii. Nature of alcohol-related crash problems.
 - iii. Physiological effects of alcohol.
 - iv. Psychological effects of alcohol.
 - v. Other drug effects on the driving task.
 - vi. Zero-tolerance in the driving environment.
- i. Vehicle movement and reference points – *behind-the-wheel instruction*
 - i. Vehicle movements and reference points (entering and exiting traffic and parking).
 - ii. In-car progress assessment (*behind-the-wheel instruction*).
- j. Adverse conditions – *classroom instruction*
 - i. Adverse weather and reduced visibility conditions.
 - ii. Traction loss.
 - iii. Emergencies.
- k. Vehicle requirements – *classroom and behind-the-wheel instruction*
 - i. Vehicle malfunctions (*classroom instruction*).
 - ii. Vehicle maintenance (*classroom instruction*).
 - iii. Trip planning (*classroom instruction*).
 - iv. Adverse conditions and vehicle requirements – off-street simulated practice (*behind-the-wheel instruction*).
 - v. In-car progress assessments (*behind-the-wheel instruction*).
- l. Consumer responsibility – *classroom and behind-the-wheel instruction*
 - i. Vehicle use and ownership (*classroom instruction*).
 - ii. Vehicle insurance (*classroom instruction*).
 - iii. Environmental protection and litter prevention (*classroom instruction*).

- iv. Anatomical gift Act – organ donor (*classroom instruction*).
- m. Personal responsibility (*classroom and behind-the-wheel instruction*).
 - i. Comprehensive classroom progress assessment (testing) (*classroom instruction*).
 - ii. Driver licensing (*classroom instruction*).
 - iii. In-car progress assessment (*behind-the-wheel instruction*).

ARC 8472C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rulemaking related to motorcycle rider education
and providing an opportunity for public comment**

The Transportation Department hereby proposes to rescind Chapter 635, “Motorcycle Rider Education (MRE),” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)“j” and 321.179.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 307.12(1)“j,” 321.179 and 321.180B.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 635 in compliance with Executive Order 10. Proposed Chapter 635 complies with Iowa Code sections 321.179 and 321.180B(5). The chapter outlines the application, renewal, and eligibility requirements for motorcycle rider education (MRE) courses, sponsors and instructors in the state. The Department is also required to establish the framework under which MRE sponsors may be reimbursed from the Motorcycle Rider Education Fund for the costs of providing MRE courses.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 10, 2024

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 9, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

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

January 9, 2025 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 631 843 106
January 9, 2025 2 to 2:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 629 845 33

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

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 635 and adopt the following **new** chapter in lieu thereof:

CHAPTER 635
MOTORCYCLE RIDER EDUCATION (MRE)

761—635.1(307,321) Information and location. Applications, forms and information regarding this chapter are available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at 515.244.8725; by facsimile at 515.239.1837; or by email at mre.dot@iowadot.us.

761—635.2(307,321) Definitions.

“*Approved course*” means the motorcycle rider education course approved by the department.

“*Instructor*” means a person licensed by the department to instruct an approved course.

“*MRE*” means motorcycle rider education.

“*Sponsor*” means an entity that provides the approved course.

761—635.3(307,321) Application, renewal and fees.**635.3(1)** *Application and renewal.*

a. An applicant for a sponsor license must apply to the department in a manner determined by the department prior to the beginning of the first class offered in the approved course and annually thereafter.

b. An applicant for an instructor license must apply to the department in a manner determined by the department prior to the beginning of the first class of the approved course taught by the instructor and annually thereafter. However, an individual who meets the qualifications for a license except for paragraph 635.5(2) “d” or whose license is denied under subrule 635.6(2) may teach the approved course as provided in paragraph 635.6(2) “b.”

c. A sponsor or instructor license is valid for a calendar year or remainder of a calendar year and expires on December 31 but remains valid for an additional 30 days after the expiration date.

d. Unless otherwise approved by the department, an application for license renewal is due to the department within 60 days of the expiration date.

635.3(2) *Fees.* The initial application and annual renewal fee are \$25 for a private or a commercial sponsor. The fee is to be paid in a manner approved by the department.

761—635.4(307,321) Approved course in MRE.**635.4(1)** *Course requirements.*

a. Only an MRE course approved by the department using nationally recognized, research-based curriculum is to be taught by any sponsor providing MRE.

b. On-cycle instruction of the approved course must meet the following requirements:

(1) The student is at least 14 years of age; possesses a valid driver’s license as defined in Iowa Code section 321.1; is able to touch the ground with the balls of both feet while sitting astride the training motorcycle; wears a U.S. DOT-approved helmet, an eye-protective device, and protective clothing including gloves, a long-sleeved shirt or jacket, long pants, and shoes or boots that cover the feet and ankles; and completes the motorcycle safety course waiver form, including the signature of a parent or legal guardian if the student is under the age of 18.

(2) The scheduled time for classroom or on-cycle instruction, or a combination of both, does not exceed eight hours in any one calendar day.

(3) The student-instructor ratio for classroom instruction does not exceed 36 to 1. The student-instructor ratio for on-cycle instruction does not exceed 6 to 1; however, no more than 12 students may receive on-cycle instruction at one time on a single full-size range.

(4) The driving range used for on-cycle instruction is paved, free of hazards to motorcycle travel, and has an unobstructed, paved runoff of at least 20 feet in all directions.

(5) The sponsor provides for each student engaged in on-cycle instruction one fully operational motorcycle manufactured for highway use that has not been modified, does not contain aftermarket equipment, and meets at least two of the following criteria:

1. Has an engine displacement of 500 cubic centimeters or less, or an electric motor of 30 kW or less.

2. Has a curb (wet) weight of 440 pounds or less.

3. Has a seat height of 30 inches or less.

635.4(2) *Certificate of completion.* Only persons successfully completing all elements of the approved course will be issued an Iowa certificate of completion for MRE by the sponsor to be submitted to the department by the methods provided in 761—subrule 602.2(1). The driving test for a Class M driver’s license or a motorcycle endorsement may be waived under 761—subrule 604.31(2) within two years of the issuance of a certificate of completion.

761—635.5(307,321) Instructor and sponsor qualifications.

635.5(1) *Instructor license.* To qualify for an instructor’s license, an individual must:

a. Possess a valid Class M driver’s license or a motorcycle endorsement or equivalent license or endorsement that is valid for a two-wheel motorcycle.

b. Successfully complete a nationally recognized, research-based instructor preparation course approved by the department.

c. Possess a current instructor certification from a nationally recognized motorcycle safety organization approved by the department.

d. Before a license is granted, teach one class of the approved course under the guidance of an experienced, licensed instructor approved by the department.

e. After the year in which a license is granted, teach at least one nationally recognized, research-based motorcycle rider preparation course approved by the department in Iowa or another state each calendar year.

f. After the year in which a license is granted, complete at least one state-sponsored or state-approved instructor update each calendar year. The update must be completed in Iowa every other year.

g. Have a clear driving record for the previous two years. A clear driving record means the individual has:

(1) Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).

(2) No driver's license suspensions, revocations, denials, cancellations, disqualifications or bars.

(3) Not committed an offense that would result in driver's license suspension, revocation, denial, cancellation, disqualification or bar.

(4) No record of a law enforcement investigative report indicating a contributive motor vehicle accident that caused the death or serious injury of another person.

(5) No record of two or more contributive motor vehicle accidents in a two-year period.

h. Comply with any department review and verification of the instructor's qualifications under this subrule.

635.5(2) Sponsor license. To qualify for a sponsor's license, an entity must:

a. Use only a course approved under rule 761—635.4(307,321).

b. Use only instructors licensed by the department to teach the approved course.

c. Maintain liability insurance in an amount of not less than \$1 million, combined single limit, with an aggregate limit of not less than \$2 million, and file a certificate of this insurance with the department verifying coverage for scheduled courses of instruction. The certificate shall name the department and its officers, agents, representatives and employees as additional insureds with respect to all work, deliveries or services performed for the department by the named insured, and specify that the department's motor vehicle division shall be given at least 30 days' prior notice of any material change in or cancellation of the insurance.

d. Provide written verification of self-insurance to the department if the sponsor is a state agency or public educational institution.

e. Maintain complete instructional accident report files and furnish this information to the department in a manner determined by the department.

f. Maintain a record of costs incurred in providing the approved course.

g. Allow the department or the department's designee to audit any class of the approved course, either announced or unannounced.

h. Involve a program administrator in an annual department-sponsored, in-service seminar.

i. Provide and maintain adequate instructional facilities and equipment to accommodate all components of the approved course, including but not limited to the lecture, audio-visual, and on-cycle components.

761—635.6(307,321) Cancellation or denial.

635.6(1) Cancellation. The department shall cancel the license if the sponsor or instructor fails to comply with the applicable provisions of this chapter or Iowa Code section 321.179 or 321.180B(5) or if the course or instructors are no longer approved.

635.6(2) Denial. The department shall deny an initial or renewal application if the applicant does not meet the criteria for issuance of a license under this chapter. A denial for an instructor's failure to

comply with the provisions of paragraph 635.5(1) “c,” “e” or “f” will remain in effect until the instructor completes the following requirements, as applicable:

- a. Presents an unexpired instructor certification from a nationally recognized motorcycle safety organization approved by the department.
- b. Teaches one class of the approved course under the guidance of an experienced, licensed instructor approved by the department.
- c. Completes at least one state-sponsored or state-approved instructor update.

761—635.7(321) Use of MRE fund. The MRE fund may be used for the following purposes:

635.7(1) Course development. New or current sponsors may apply to the department for funds to establish delivery of the approved course at an unserved site. Current sponsors may apply for funds to expand delivery at an existing site.

- a. Expenditures eligible for funding are limited to:
 - (1) Acquisition of necessary classroom furnishings and audio-visual systems if used exclusively to deliver the approved course.
 - (2) Required curriculum materials including necessary audio and visual components.
 - (3) Range development and maintenance excluding land acquisition, surfacing and resurfacing.
 - (4) Training motorcycles and motorcycle maintenance equipment if the equipment is to be used exclusively for the upkeep of the motorcycles.
 - (5) On-cycle safety equipment limited to helmets, eye-protective devices and gloves.
- b. Application for funds shall be made in a manner determined by the department. Departmental approval will be based on the geographical area, the number of students to be served and the availability of moneys in the MRE fund. The number of students to be served is determined by range size, the number of courses to be offered, and the number of sponsors providing the course.
- c. Payment to the sponsor for course development expenditures will be on a cost-reimbursement basis and made after claims under subrule 635.7(5) are paid.

635.7(2) Instructor preparation. The department will sponsor and accept applications for enrollment in initial instructor preparation courses.

- a. An instructor preparation course is open to any individual who:
 - (1) Possesses a valid Class M driver’s license or a motorcycle endorsement or equivalent license or endorsement that is valid for a two-wheel motorcycle.
 - (2) Submits verification from an approved sponsor of employment as an instructor of the approved course to be offered within the next 12 months.
- b. Upon proof of successful completion of the instructor preparation course, an individual may be reimbursed for course tuition.

635.7(3) Instructor updates. The department will sponsor and fund instructor updates held in Iowa. Instructor updates are open to all state-licensed MRE instructors and instructor trainers.

635.7(4) Instructor trainer preparation.

- a. An experienced, state-licensed MRE instructor may apply to the department for funding assistance on forms provided by the department if both the following occur:
 - (1) The instructor is accepted for enrollment in a nationally recognized instructor trainer preparation course approved by the department.
 - (2) The instructor agrees to be an instructor trainer in a department-sponsored instructor preparation course within 12 months following successful completion of the instructor trainer preparation course.
- b. The department may approve the application if the department determines there is a need for additional instructor trainers.
- c. If the department approves the application, then all the following apply:
 - (1) Funding assistance is limited to course tuition, travel, and subsistence (meals and lodging).
 - (2) Upon approval of the application, the department will pay for course tuition and travel to the training site.
 - (3) Upon receipt by the department of evidence of successful completion accompanied by documentation of subsistence expenses incurred, the department will reimburse the instructor for food

and lodging based on the in-state reimbursement limits established for state employees by the department of administrative services.

(4) If the instructor fails to attend the training, the instructor must repay the department both the course tuition and the travel purchased.

(5) If the instructor fails to successfully complete the course, the instructor must repay the department one-half the course tuition and one-half the travel purchased. Meal and lodging expenses will not be reimbursed.

635.7(5) *Reimbursement of per pupil costs.* The department will reimburse a sponsor for each student who completes the approved course contingent upon the availability of moneys in the MRE fund.

a. Reimbursement will be paid twice each calendar year, once for training provided from January to June and once for training provided from July to December.

b. The reimbursement will be based on a per pupil rate determined semiannually by the department. The rate will be based on the amount of moneys available in the MRE fund, less the administrative and instructor training costs, and will be distributed to sponsors based on the total number of students who complete the approved course.

c. Claims for reimbursement shall be submitted in a manner determined by the department and include a summary of courses taught with site, date, and instructor information; a report for each class taught that provides the name, age, and driver's license number of each student; and any other information required by the department.

d. Failure to provide course, instructor and student information; failure to meet instructor certification and licensure requirements; failure to comply with applicable provisions of this chapter in providing the course; or failure to meet prescribed instructor-student ratios shall result in the forfeiture of reimbursement for those courses and students involved.

These rules are intended to implement Iowa Code sections 307.12(1)“j,” 321.179 and 321.180B(5).

ARC 8431C

UTILITIES COMMISSION[199]

Notice of Intended Action

Proposing rulemaking related to equipment distribution program and providing an opportunity for public comment

The Utilities Commission hereby proposes to rescind Chapter 37, “Equipment Distribution Program,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 476.2 and 477C.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 477C.

Purpose and Summary

The Commission commenced this rulemaking under the provisions of Executive Order 10. The purpose of the proposed chapter is to describe the Commission's equipment distribution program established pursuant to Iowa Code section 477C.4 to secure, finance, and distribute telecommunications devices for eligible persons who are deaf or hard of hearing or who have difficulty with speech.

Prior to submission of the Notice, the Commission held a technical conference, which included a discussion regarding the proposed new version of Chapter 37, with and accepted written comments from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, and the Iowa Communications Alliance. Based on the comments received, the Commission modified Chapter 37 to

produce the noticed version, including the reinsertion of the word “shall” in subrules 37.5(1) and 37.5(3) at OCA’s request.

The Commission issued an order on November 1, 2024, commencing this rulemaking. The order is available on the Commission’s electronic filing system, efs.iowa.gov, under RMU-2023-0037.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on August 23, 2023. A public hearing was held on the following date(s):

- September 18, 2023

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Commission has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 37.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Commission no later than 4:30 p.m. on December 31, 2024. Comments should be directed to:

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

Public Hearing

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

January 15, 2025 9 to 11 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Via Zoom
January 23, 2025 2 to 4 p.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Via Zoom

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

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

Review by Administrative Rules Review Committee

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

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 37 and adopt the following **new** chapter in lieu thereof:

CHAPTER 37 EQUIPMENT DISTRIBUTION PROGRAM

199—37.1(477C) Purpose. This chapter describes the commission's program established pursuant to Iowa Code section 477C.4 to secure, finance, and distribute telecommunications devices. The commission's equipment distribution program serves eligible individuals who are deaf or hard of hearing or who have difficulty with speech.

The equipment distribution program will be limited by revenue considerations and annual budget amounts set by the commission, with the advice of the deaf services commission. When the budgeted amounts for a period are committed or expended, no further vouchers for equipment will be issued until the next period when the commission budgets additional amounts.

199—37.2(477C) Program structure. The equipment distribution program may be conducted by a program administrator chosen by the commission. Distribution of equipment will be made through a voucher system utilizing private vendors for equipment purchases. Vouchers to pay part or, depending upon the price, all of the cost of equipment will be issued by the program administrator to eligible recipients. After purchase using a voucher, the recipient will be the permanent owner of the equipment and responsible for enforcement of any warranties and for any repairs.

199—37.3(477C) Equipment. The commission will authorize and maintain a list of the types of equipment to be distributed through the program.

199—37.4(477C) Application process and eligibility. Applications will be processed in queue. Additional vouchers will not be issued during a period if unpaid vouchers are outstanding for the remaining funds budgeted for the period. By signing the application form or otherwise averring to the accuracy of the information contained in the application, an applicant or the applicant's power of attorney certifies that the information provided therein is true.

37.4(1) Eligibility. No person is entitled to equipment at a particular time merely because the person meets the eligibility requirements. An eligible applicant will be limited to a voucher for one type of equipment or equipment package. A person is eligible for equipment under the program if the following requirements are satisfied:

a. The applicant's equipment need is verified by an appropriate professional, which may include a licensed physician; certified teacher in the fields of hearing, speech, or visual impairment; licensed and certified sign language interpreter; speech pathologist; audiologist or hearing aid specialist; or appropriate state or federal agency representative.

b. The applicant has, or has applied for, access to the service that will allow the applicant to use the requested equipment. Access to Internet service may be provided through a public wireless network connection.

c. The applicant is an individual and an Iowa resident.

d. The applicant is at least five years of age or demonstrates an ability to use the equipment requested. No demonstration is necessary for those five years of age and older.

e. The applicant agrees to cooperate with studies to evaluate the effectiveness of the program.

f. The applicant's gross annual family income is equal to or less than \$76,000 for a family of two. Family sizes above or below two will increase or decrease that amount in \$10,000 increments per family member change.

37.4(2) *Reapplication.* Prior voucher recipients may reapply through the program to replace existing equipment or to obtain new equipment, as appropriate. Reapplication will be limited by a three-year waiting period. The reapplication period may be shortened by the commission's equipment distribution program project manager in an individual case for good cause shown. At the time of reapplication for equipment, it is not necessary for the applicant's need for the equipment to be reverified by an appropriate professional. The program administrator will verify that the applicant reapplying for equipment previously qualified for and continues to qualify for a voucher.

199—37.5(477C) Voucher system.

37.5(1) *Amount.* The voucher will state a standard amount for a particular piece of equipment.

a. The standard amount shall be determined and updated periodically by the commission.

b. The standard amount shall be 95 percent of the average retail market price for the piece of equipment unless the retail market price is more than \$1,000, in which case the standard amount is 99 percent of the average retail market price. The standard amount may be increased to 100 percent if a person demonstrates to the program administrator that the person is unable to pay the matching amount.

37.5(2) *Voucher use.* The recipient of a voucher may purchase equipment from any vendor that will accept the voucher and may apply the voucher amount toward purchase of the brand and model of indicated equipment as the recipient chooses. The program will not reimburse for equipment purchased by an applicant prior to the issuance of a voucher.

37.5(3) *Term.* The voucher provides for a 40-day period for the voucher recipient to redeem the voucher with the recipient's chosen vendor. The vendor, upon presentation of the voucher, shall have 60 days to complete the sale and delivery of the equipment and to return the voucher to the commission. The program administrator, for good cause shown, may extend either the 40- or 60-day deadline, provided the voucher is submitted to the commission for payment within 120 days from the issuance of the voucher. The program administrator may authorize reimbursement for a voucher issued more than 120 days before the voucher is sent to the commission for payment if the program administrator determines good cause exists for extending the 120-day deadline and provides supporting documentation to the commission.

37.5(4) *Payment.* The voucher is not a negotiable instrument. Upon presentation of documentation by the vendor as determined by the commission, including but not limited to an invoice showing an amount due no greater than the voucher amount, the vendor will be issued a state warrant for the amount due.

199—37.6(477C) Complaints. All complaints concerning the equipment distribution program will be resolved pursuant to the following:

37.6(1) The program administrator will make determinations concerning matters such as eligibility, type of equipment for particular applicants, or reimbursement of vendors.

37.6(2) The program administrator, after requiring interested persons to state verbally or in writing any complaint or dispute arising under the equipment distribution program, will attempt to settle the matter informally within 45 days.

37.6(3) Should the informal dispute resolution process fail, the complainant may submit the complaint to the commission for processing by the commission's equipment distribution program project manager as provided in 199—Chapter 6. The project manager will provide a copy of the complaint to the program administrator and the consumer advocate. The project manager will issue a proposed resolution that describes the facts involved in the dispute, clearly states the proposed resolution, and gives notice that any interested person dissatisfied with the proposed resolution has 14 days after the proposed resolution is issued to file a written request for formal complaint proceedings before the commission.

37.6(4) If no timely request for formal complaint proceedings is filed, the proposed resolution shall be deemed binding on all interested persons served with the proposed resolution.

37.6(5) The commission will process requests for formal complaint proceedings as provided in the "initiating formal complaint proceedings" rule contained in 199—Chapter 6.

These rules are intended to implement Iowa Code section 477C.4.

ARC 8451C

ECONOMIC DEVELOPMENT AUTHORITY[261]**Adopted and Filed****Rulemaking related to entrepreneur investment awards program**

The Economic Development Authority hereby rescinds Chapter 102, “Entrepreneur Investment Awards Program,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 15E.362 and 15E.363.

Purpose and Summary

Pursuant to Executive Order 10 issued January 10, 2023, the Authority is rescinding Chapter 102 relating to the Entrepreneur Investment Awards Program and adopting a new chapter in lieu thereof. The program supports providers of technical and financial assistance to entrepreneurs and start-up companies seeking to create, locate, or expand a business in the state. Language that duplicates statutory language or that is otherwise unnecessary will be eliminated throughout the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024, as **ARC 8224C**. A public hearing was held on the following date(s):

- October 8, 2024
- October 10, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on November 15, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

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

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 261—Chapter 102 and adopt the following **new** chapter in lieu thereof:

CHAPTER 102
ENTREPRENEUR INVESTMENT AWARDS PROGRAM

261—102.1(15E) Purpose and funding. The entrepreneur investment awards program supports providers of technical and financial assistance to entrepreneurs and start-up companies seeking to create, locate, or expand a business in the state. Moneys for financial assistance under the program will be awarded from the moneys in the entrepreneur investment awards program fund created pursuant to Iowa Code section 15E.363. The amount deposited in the fund each year depends on the amount allocated for such purposes pursuant to Iowa Code section 15.335B.

261—102.2(15E) Definitions. As used in this chapter unless the context otherwise requires:

“*Applicant*” means a provider applying to the authority for financial assistance under the program.

“*Authority*” means the same as defined in Iowa Code section 15.102.

“*Board*” means the same as defined in Iowa Code section 15.102.

“*Business development services*” means the same as defined in Iowa Code section 15E.362.

“*Committee*” means a committee of application reviewers appointed by the director.

“*Deliverables*” means the performance of duties or other obligations required for the receipt of financial assistance under the program.

“*Director*” means the same as defined in Iowa Code section 15.102.

“*Financial assistance*” means the same as defined in Iowa Code section 15.327.

“*Program*” means the same as defined in Iowa Code section 15E.362.

“*Provider*” means an “eligible entrepreneurial assistance provider” as defined in Iowa Code section 15E.362.

261—102.3(15E) Application procedures. Providers may be invited to submit applications to the authority. The authority will review applications to confirm program eligibility pursuant to Iowa Code section 15E.362(3). Eligible applications will be sent to the committee to develop a recommendation on funding pursuant to rule 261—102.4(15E). The committee will provide its recommendation to the board for a final determination on funding. The amount of financial assistance awarded to a provider is within the discretion of the authority as determined by the board.

261—102.4(15E) Evaluation and recommendation process.

102.4(1) Eligibility. To be eligible for financial assistance under the program, an applicant must meet all the requirements in Iowa Code section 15E.362(3), in addition to all of the following requirements:

- a. The applicant must have its principal place of operations in the state of Iowa.
- b. The applicant must be actively providing business development services in the state of Iowa.

102.4(2) Competitive scoring criteria. In addition to the considerations identified in Iowa Code section 15E.362(8), the committee will develop its recommendations for funding based on the following criteria:

- a. The extent to which the applicant's project addresses an unmet need of entrepreneurs in the state of Iowa; and

b. The extent to which the applicant has identified adequate resources to sustain the applicant's project following the provision of financial assistance by the authority.

102.4(3) Committee recommendation. The evaluation and recommendation of the committee will be summarized in a report to the board for the board's use in making a final determination. The committee may recommend applicable terms and conditions of financial assistance.

261—102.5(15E) Administration of financial assistance.

102.5(1) Contract required. An applicant awarded financial assistance under the program shall enter into a contract with the authority for the receipt of such funds. The provider shall maintain all eligibility requirements for the duration of a contract. The contract may include such deliverables and other terms and conditions as the authority deems necessary. The authority will make the final determination as to compliance with the terms of the contract and will make the final determination as to whether and when to disburse funds to the applicant.

102.5(2) Use of funds. Funds shall be used consistent with the requirements in Iowa Code section 15E.362(9). For the purposes of determining whether funds have been used consistent with Iowa Code section 15E.362(9), "operating costs" means the expenses associated with administering a provider's activities on a day-to-day basis. "Operating costs" includes both fixed costs and variable costs. "Operating costs" does not include expenses associated with nonoperating activities, such as interest expenses, repayment of principal, or moneys invested by the provider in a client's businesses or in other ventures.

102.5(3) Reporting. An applicant receiving assistance under the program shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor's office.

These rules are intended to implement Iowa Code sections 15E.362 and 15E.363.

[Filed 11/20/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8452C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rulemaking related to innovative and other business development

The Economic Development Authority hereby rescinds Chapter 105, "Demonstration Fund," and adopts a new Chapter 105, "Innovative and Other Business Development—Demonstration Fund and Proof of Commercial Relevance"; and rescinds Chapter 108, "Acceleration and Development of Innovative Ideas and Businesses," and adopts a new Chapter 108, "Innovative and Other Business Development—Applied Research and Manufacturing Extension Partnership," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 15.106A and 15.411.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15.411.

Purpose and Summary

Pursuant to Executive Order 10 issued January 10, 2023, the Authority is rescinding Chapters 105 and 108 relating to the innovation program components and adopting new chapters in lieu thereof.

Chapter 105 describes the policies and procedures applicable to the Demonstration Fund. The fund provides financial assistance to encourage prototype development and concept development activities pursuant to Iowa Code section 15.411. Chapter 108 describes the policies and procedures applicable to the following program components related to innovative and other business development established pursuant to Iowa Code section 15.411(5): a component for proof of commercial relevance, a component for the expansion of investment in applied research, and a component for a manufacturing extension partnership program.

The new Chapter 105 addresses both the Demonstration Fund and proof of commercial relevance program components as the programs are currently administered consistently. The new Chapter 108 references only the components for the expansion of investment in applied research and the manufacturing extension partnership program.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024, as **ARC 8221C**. A public hearing was held on the following date(s):

- October 8, 2024
- October 10, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on November 15, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 261—Chapter 105 and adopt the following **new** chapter in lieu thereof:

CHAPTER 105

INNOVATIVE AND OTHER BUSINESS DEVELOPMENT—DEMONSTRATION FUND AND PROOF OF COMMERCIAL RELEVANCE

261—105.1(15) Purpose and delegation of functions. The proof of commercial relevance program component is established pursuant to Iowa Code section 15.411(5) for the purpose of accelerating the generation and development of innovative ideas and businesses. The demonstration fund program component is established pursuant to Iowa Code section 15.411(2) to encourage prototype development and concept development activities. The authority may delegate certain administrative functions to a service provider engaged pursuant to Iowa Code section 15.411.

261—105.2(15) Definitions.

“Authority” means the same as defined in Iowa Code section 15.102.

“Board” means the same as defined in Iowa Code section 15.102.

“Committee” means the technology commercialization committee established pursuant to Iowa Code section 15.116.

“Demo” means the demonstration fund program component.

“IP” means intellectual property.

“NAICS” means the North American Industry Classification System.

“POCR” means the proof of commercial relevance program component.

261—105.3(15) Project funding.

105.3(1) Awards are made on a per-project basis upon board approval.

105.3(2) The committee and board may establish maximum award amounts for each program component.

105.3(3) POCR funds may be used for third-party technology evaluation, regulatory analysis, identifying partners or manufacturers, IP development and evaluation, validation of market potential, beta testing, or team assembly. Demo funds may be used for marketing, sales, distribution, product refinement or market research.

105.3(4) Funds may not be used for university overhead expenses or any work that was conducted by the applicant or any third-party consultant prior to the term of the financial assistance contract.

105.3(5) The forms of financial assistance may consist of but are not limited to loans, forgivable loans, grants and such other forms of assistance the committee and the board deem appropriate and consistent with the needs of a given project.

261—105.4(15) Matching funds requirement. In order to receive financial assistance, an applicant must demonstrate the ability to secure one dollar of nonstate moneys for every two dollars received from the authority.

261—105.5(15) Eligible applicants. Eligible applicants must be located in Iowa, demonstrate the potential for high growth, and be included in one of the following industries classified by the NAICS:

1. Biosciences.
2. Information technologies.
3. Advanced manufacturing.

261—105.6(15) Ineligible applicants. The following businesses are not eligible:

105.6(1) A business that is engaged in retail sales or provides health services is ineligible. In determining whether a business is engaged in retail sales, factors the authority will consider include but are not limited to the sources of the business’s revenue, whether the business manufactures a product it sells, and whether the business owns intellectual property associated with a product the business sells.

105.6(2) A business that closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operation to another area of the state is ineligible for 36 consecutive months at any of the business’s Iowa sites from the date the new establishment opens.

261—105.7(15) Application and review process.

105.7(1) An eligible business seeking financial or technical assistance must submit an application to the authority in the form and with the content specified by the authority.

105.7(2) The authority will review applications to confirm program eligibility pursuant to Iowa Code section 15.411 and this chapter. Eligible applications will be sent to the committee to develop a recommendation on funding. The committee will make funding recommendations to the board. The board has final decision-making authority on requests for financial assistance. The board may approve, defer or deny an application.

105.7(3) An application for assistance will include but not be limited to the following:

a. Proposed product or service. A description of the proposed product or service, the experience of those involved in the proposed project, and the company resources.

b. Market research. A market research analysis that addresses competing or alternative technologies, advantages of the proposed product or service compared to competing or alternative technologies, distribution plans, and estimated return on investment.

c. Commercialization. A description of the key next steps to making an impact with the innovation and a description of funding requirements, based on standard financial documents, necessary to overcome obstacles to success.

d. Work plan. A description of the strategy and key elements to be funded to address goals of the work plan, including project milestones.

e. Resources and budget. A budget that includes a detailed description of the sources, including the required match, and uses of the funds.

261—105.8(15) Application selection criteria. In reviewing applications for financial assistance, the committee and board shall consider the following criteria:

105.8(1) *Intellectual property.* How the ownership of the IP is structured. Preference will be given to applicants with greater IP control by the business.

105.8(2) *Experience.* The business's experience in productization and commercialization, and ongoing product maintenance.

105.8(3) *Estimate to completion.* The business's work requirements and estimated timeline for completion, the credibility of the estimated timeline for completion relative to the business's experience, and the business's resources available to fulfill requirements and conform to a timeline.

105.8(4) *Market.* The business's competitors, market for the business's product in Iowa and outside of Iowa, plausibility of the business's marketing plan, and the business's experience in the industry.

105.8(5) *Financial requirement.* The availability of matching funds and other necessary funds to take the product to market.

105.8(6) *Distribution.* The availability of channels to take the product to market.

105.8(7) *Expected return.* Whether the expected return can be quantified, based on time to break even and long-term economic impact.

261—105.9(15) Contract and reporting.

105.9(1) Successful applicants will be notified in writing of an award of assistance, including any conditions and terms of the approval.

105.9(2) The authority will prepare a contract that includes but is not limited to a description of the project to be completed by the business, conditions to disbursement, required reports, and applicable repayment requirements.

105.9(3) The committee and the board must approve any substantive amendments to the contract. Authority staff may approve nonsubstantive amendments.

105.9(4) An applicant shall submit any information requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor's office.

These rules are intended to implement Iowa Code section 15.411.

ITEM 2. Rescind 261—Chapter 108 and adopt the following **new** chapter in lieu thereof:

CHAPTER 108
INNOVATIVE AND OTHER BUSINESS DEVELOPMENT—APPLIED RESEARCH AND
MANUFACTURING EXTENSION PARTNERSHIP

261—108.1(15) Purpose and description of program components. This chapter applies to program components established pursuant to Iowa Code section 15.411(5) for the expansion of investment in applied research and a component for a manufacturing extension partnership program. The authority may delegate certain administrative functions to a service provider engaged pursuant to Iowa Code section 15.411.

261—108.2(15) Definitions. As used in this chapter unless the context otherwise requires:

“*Applicant*” means an innovative business or other business, a university, a nonprofit organization, or another entity applying to the authority for assistance under the program.

“*Applied research*” means a systematic inquiry into the practical application of science and technology. Applied research includes translational research, participative research, and other related terms that are similar to or share the goals of applied research.

“*Assistance*” means technical and financial assistance available under the program.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Committee*” means the technology commercialization committee established by the board pursuant to 261—Chapter 1.

“*Financial assistance*” means assistance provided only from the funds, rights, and assets legally available to the authority and includes but is not limited to assistance in the form of grants, loans, forgivable loans, and royalty agreements.

“*Innovative business*” means the same as defined in Iowa Code section 15E.52(1)“c.”

“*MEP*” means a manufacturing extension partnership and its associated program component.

“*Program*” means the components of the program established in this chapter pursuant to Iowa Code section 15.411.

261—108.3(15) Program description, application procedures, and delegation of functions.

108.3(1) Description. The program provides technical assistance and financial assistance for the expansion of applied research and support for an MEP. All awards of financial assistance must be approved by the board, after submission of a proposal by the applicant and a recommendation on the proposal by the committee.

a. The applied research component makes financial assistance available to innovative businesses to connect university research to the innovative businesses’ needs and to accelerate the transfer of new technologies to the marketplace. The authority may award financial assistance to university researchers who are attempting to align their research with market and industrial needs by forming partnerships with innovative businesses. Financial assistance under this component may take the form of grant funds. If grant funds are awarded, the applicant shall be required to match the amount of grant funds with other moneys at a ratio of one to one. Applicants may submit applications to the authority for assistance under this component. Such applications should describe in detail what activities the applicant will engage in to accelerate the validation of technology for the marketplace.

b. The MEP component makes financial assistance available to service providers that form partnerships with innovative businesses to conduct workshops for the purpose of providing assistance in determining and prioritizing applied research needs based on gaps in productivity or product needs and that offer to broker connections between innovative businesses and the researchers who can perform the necessary applied research. Financial assistance is also available to innovative businesses under this component for product development, design verification, custom equipment development, manufacturing process development, and technology development and commercialization. The authority

will award financial assistance to eligible innovative businesses. Applicants may submit applications to the authority for assistance under this component. Such applications should describe in detail the nature of the partnerships being formed, what activities the partnership will undertake, and how such activities will further the goals of this component. Applicants must submit applications for assistance under this component and must describe in detail how the proposed services will expand the applicant's market penetration, create a new product with market relevance, or enhance an existing product by further innovation.

108.3(2) *Application and award procedures.* Applicants to the program may submit applications to the authority for financial assistance. To be eligible, an applicant must meet the requirements of one of the components described in subrule 108.3(2). Authority staff will review applications to confirm program eligibility before sending them to the committee for a recommendation on funding. The committee will provide its recommendation to the board for a final determination on the provision of financial assistance. The board may approve, deny, or defer each application for financial assistance under the program. The board will consider applications for financial assistance on a first-come, first-served basis. If the board approves funding for a business, the authority will prepare a required contract specifying the terms and conditions under which the financial assistance is to be provided to the business.

261—108.4(15) Program funding. Each year, the authority allocates moneys for purposes of the programs listed in Iowa Code section 15.411, including this program. The amount allocated each year will depend on the amount appropriated to the authority by the general assembly. The authority may allocate other funds to the program as such funds may from time to time become available.

261—108.5(15) Contract and report information required.

108.5(1) *Contract required.* An applicant awarded financial assistance under the program shall enter into a contract with the authority for the receipt of such funds. No funds will be disbursed to the applicant until the applicant has entered into a contract with the authority. The authority will include in the contract all terms and conditions for receipt of the funds. The authority will make the final determination as to compliance with the terms of the contract and as to whether and when to disburse funds to the applicant.

108.5(2) *Reporting information required.* An applicant may be required to submit all information necessary for the authority to compile a report on the results of the program. The authority will include terms in the required contract effectuating this requirement.

These rules are intended to implement Iowa Code section 15.411.

[Filed 11/20/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8453C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rulemaking related to strategic infrastructure program

The Economic Development Authority (IEDA) hereby rescinds Chapter 118, "Strategic Infrastructure Program," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 15.106A and 15.313.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15.313.

Purpose and Summary

The Strategic Infrastructure Program (program) assists projects that develop commonly utilized assets that provide an advantage to one or more private sector entities or that create necessary physical infrastructure in the state.

Pursuant to Executive Order 10 dated January 10, 2023, IEDA is rescinding Chapter 118 relating to the program and adopting a new chapter 118 in lieu thereof. Language that duplicates statutory language or that is otherwise unnecessary will be eliminated throughout the chapter.

Additionally, the definition of “council” in rule 261—118.3(15) has been updated to include a committee appointed pursuant to Iowa Code section 15.117A(7) as enacted by 2024 Iowa Acts, Senate File 2385.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024, as **ARC 8222C**. A public hearing was held on the following date(s):

- October 8, 2024
- October 10, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on November 15, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 261—Chapter 118 and adopt the following **new** chapter in lieu thereof:

CHAPTER 118
STRATEGIC INFRASTRUCTURE PROGRAM

261—118.1(15) Purpose. The purpose of the strategic infrastructure program is to assist projects that develop commonly utilized assets that provide an advantage to one or more private sector entities or that create necessary physical infrastructure in the state of Iowa, and such projects are not adequately provided by the public or private sectors.

261—118.2(15) Definitions.

“Authority” means the economic development authority created in Iowa Code section 15.105.

“Board” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“Council” means the Iowa innovation council established pursuant to Iowa Code section 15.117A, any panel or committee composed of members of the council, or a committee appointed pursuant to Iowa Code section 15.117A(7) as enacted by 2024 Iowa Acts, Senate File 2385.

“Director” means the director of the economic development authority.

“Financial assistance” means the same as defined in Iowa Code section 15.102.

“Program” means the strategic infrastructure program established in this chapter.

“Strategic infrastructure” means the same as defined in Iowa Code section 15.313.

“Vertical improvement” means the same as defined in Iowa Code section 15J.2.

261—118.3(15) Program eligibility and application requirements. To be eligible for financial assistance under the program, an applicant shall do all of the following:

118.3(1) The applicant must propose to invest in strategic infrastructure and describe how each element in Iowa Code section 15.313(4) *“b”* is satisfied.

118.3(2) The applicant must describe in detail the nature, scope, design, and goals of the proposed strategic infrastructure project, including the relationships of the entities and individuals involved.

118.3(3) The applicant must describe the proposed financing structure for the proposed infrastructure project, including the sources of funds and the proposed uses of the funds.

261—118.4(15) Application submittal and review process.

118.4(1) The authority will develop a standardized application process and invite applicants with strategic infrastructure projects that may be eligible for the program to apply. To apply for assistance under the program, an applicant shall submit an application to the authority in the form and manner prescribed by the authority.

118.4(2) Applications will be accepted on a continuing basis and processed by authority staff. Applications will be reviewed in the order received by the authority.

118.4(3) The authority may refuse to accept incomplete applications or may refuse to accept applications because of insufficient funds.

118.4(4) The council will score applications according to the criteria specified in rule 261—118.7(15) and make recommendations to the board pursuant to Iowa Code section 15.313(3). The board will take final action on all applications for financial assistance.

261—118.5(15) Application scoring criteria. The criteria under which each application will be scored are:

118.5(1) The overall quality of the proposed strategic infrastructure project, including the project’s estimated economic impact. The council will consider the structure of the proposed strategic infrastructure project and the partnerships proposed to be formed.

118.5(2) The extent to which the commonly utilized asset proposed by applicant benefits one or more private sector entities and the extent to which the commonly utilized asset creates necessary physical infrastructure in the state. More points will be awarded to proposed strategic infrastructure

projects demonstrating greater benefits or benefits to more entities and to proposed strategic infrastructure projects demonstrating more critical necessary physical infrastructure.

118.5(3) The extent to which the proposed strategic infrastructure project provides benefits that are not adequately provided by the public or private sectors.

118.5(4) The importance of the vertical infrastructure improvement developments, facilities and equipment upgrades, or the redevelopment or repurposing of underutilized property or other assets that are proposed, the extent to which the proposed strategic infrastructure project will attract additional public or private sector investment, and the likelihood that the proposed strategic infrastructure project will result in broad-based prosperity in the state of Iowa.

118.5(5) The sufficiency of the proposed strategic infrastructure project's financing structure, the feasibility of the sources of funds, and the appropriateness of the proposed uses of the funds. The council will consider a proposed strategic infrastructure project's overall financing gap and the total amount of funds leveraged from other sources.

261—118.6(15) Award administration and reporting.

118.6(1) *Notice of award.* Successful applicants will be notified in writing of an award of financial assistance, including any conditions and terms of the award.

118.6(2) *Contract administration and amendments.* The authority will prepare a contract for each award approved by the board. The contract will reflect the terms of the award and may include other terms and conditions reasonably necessary for implementation of the program pursuant to this chapter. Substantial amendments to a contract must be approved by the board. Substantial amendments include the amount of financial assistance, the length of the contract, and the terms of a settlement following an event of default. Other changes or amendments to the contract may be negotiated by the authority with the approval of the director.

118.6(3) *Disbursement of funds.* The authority will disburse funds to a strategic infrastructure project only after a complete application has been received, an award has been recommended by the council and approved by the board, a contract has been executed between the applicant and the authority, and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenditures. Disbursement of funds under the contract will be on a reimbursement basis for expenses incurred by the applicant as provided under the contract.

118.6(4) *Reporting.* An applicant receiving assistance under the program shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor's office.

These rules are intended to implement Iowa Code section 15.313.

[Filed 11/20/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8454C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rulemaking related to manufacturing 4.0 technology investment program

The Economic Development Authority (IEDA) hereby rescinds Chapter 119, "Manufacturing 4.0 Technology Investment Program," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 15.106A and 15.371.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15.371.

Purpose and Summary

The Manufacturing 4.0 Technology Investment Program (program) provides financial assistance to projects intended to lead to the adoption of, and integration of, smart technologies into existing manufacturing operations located in the state.

Pursuant to Executive Order 10 dated January 10, 2023, IEDA is rescinding Chapter 119 relating to the program and adopting a new chapter in lieu thereof. Language that duplicates statutory language or that is otherwise unnecessary has been eliminated throughout the chapter. Scoring criteria has been updated to more closely align to the intent of the program. An existing policy that excludes labor performed by a recipient's employees from reimbursement through the program has been added to the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024, as **ARC 8223C**. A public hearing was held on the following date(s):

- October 8, 2024
- October 10, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on November 15, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 261—Chapter 119 and adopt the following **new** chapter in lieu thereof:

CHAPTER 119
MANUFACTURING 4.0 TECHNOLOGY INVESTMENT PROGRAM

261—119.1(15) Purpose. The purpose of the manufacturing 4.0 technology investment program is to provide financial assistance to projects intended to lead to the adoption of, and integration of, smart technologies into existing manufacturing operations located in the state.

261—119.2(15) Definitions.

“Applicant” means a business applying for assistance under the program.

“Authority” means the economic development authority created in Iowa Code section 15.105.

“Authority’s website” means the information and related content found at www.iowaeda.com and may include integrated content at affiliate sites.

“Board” means the same as defined in Iowa Code section 15.102.

“Eligible business” means a business meeting the requirements of rule 261—119.3(15).

“Financial assistance” means the same as defined in Iowa Code section 15.102.

“Full-time equivalent job” or *“full-time”* means the employment of one person:

1. For 8 hours per day for a five-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations and other paid leave; or
2. The number of hours or days per week, including paid holidays, vacations and other paid leave, currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit, provided that the number of hours per week is at least 32 hours per week for 52 weeks per year, including paid holidays, vacations, and other paid leave.

For purposes of this definition, “employment of one person” means the employment of one natural person and does not include “job sharing” or any other means of aggregation or combination of hours worked by more than one natural person.

“Manufacturing 4.0 technology investments” or *“investments”* means the same as “manufacturing 4.0 technology investments” defined in Iowa Code section 15.371.

“Program” means the manufacturing 4.0 technology investment program established in this chapter.

261—119.3(15) Program eligibility. To be eligible for financial assistance under the program, an applicant must propose a manufacturing 4.0 technology investment that has not been made prior to the date of application and meet all the requirements established in Iowa Code section 15.371(5). For the purposes of determining whether an applicant employs a minimum of 3 employees and no more than 125 employees pursuant to Iowa Code section 15.371(5) “e,” “employee” means an individual filling a full-time equivalent job that is part of the payroll of the business receiving financial assistance under this program. “Employee” does not include a business’s part-time, leased, or contract employees.

261—119.4(15) Application submittal and review process.

119.4(1) The authority will develop a standardized application process and make information on applying available on the authority’s website. To apply for assistance under the program, an applicant shall submit an application to the authority in the manner prescribed by the authority. The authority will identify specific types of investments for which it intends to provide financial assistance on the application form or forms.

119.4(2) Applications will be accepted and processed by authority staff on a continuing basis, or the authority may establish application periods as announced on the authority’s website. The authority may engage an outside technical review panel to complete technical reviews of applications. Applications will be reviewed in the order received by the authority.

119.4(3) The authority may refuse to accept incomplete applications or may refuse to accept applications because of insufficient funds.

119.4(4) The board, after considering the recommendations made by authority staff or a technical review panel, will determine the financial assistance award if the board determines that financial

assistance should be awarded. The board has final decision-making authority on requests for financial assistance for the program. The board will take final action on all applications for financial assistance, except those rejected pursuant to subrule 119.4(3). The board may approve an award, decline to award, or refer an application back to staff or a technical review panel for further review and recommendation. The board will consider applications on a continuing basis.

119.4(5) An applicant may submit multiple applications for the duration of the program. However, the maximum amount of financial assistance awarded to any eligible business for all its applications under the program shall not exceed \$75,000.

119.4(6) Applicants will be notified in writing of an award of financial assistance, including any conditions and terms of the award, or of a denial of an award of financial assistance.

261—119.5(15) Application scoring criteria.

119.5(1) When applications for financial assistance under the program are reviewed by authority staff or a technical review panel, the criteria below will be considered and the application scored as described.

119.5(2) The criteria under which each application will be scored are:

a. The percentage of the applicant business's revenue derived from the sale of manufactured goods. Applicants who derive a higher percentage of revenue from the sale of manufactured goods will receive higher scores in this category.

b. The extent to which the manufacturer's proposed manufacturing 4.0 technology investment is consistent with the opportunities identified in the assessment completed by the center for industrial research and service at Iowa state university of science and technology pursuant to Iowa Code section 15.371(5) "f."

c. The extent to which the investment integrates smart technologies into existing manufacturing operations and the amount and scope of the business's investment.

d. The sufficiency of the proposed investment's financing structure, the feasibility of the sources of funds, and the appropriateness of the proposed uses of the funds.

e. The extent to which the investment will enhance an applicant's workforce.

f. The extent to which the applicant has planned for long-term use of the manufacturing 4.0 technology investment and an overall transition to smart technologies.

g. Whether and the extent to which the business has previously received financial assistance from the program.

261—119.6(15) Contract administration.

119.6(1) The authority will prepare a contract for each award approved by the board. The contract will reflect the terms of the award and may include other terms and conditions reasonably necessary for implementation of the program pursuant to this chapter.

119.6(2) Any substantive change to a proposed investment shall require an amendment to the contract. Amendments shall be requested in writing. No amendment shall be valid until approved by the board. The authority may execute nonsubstantive or corrective changes to the contract without board approval.

261—119.7(15) Disbursement of funds. The authority will disburse funds for an investment only after a complete application has been received, an award has been approved by the board, a contract has been executed between the applicant and the authority, and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenditures. Disbursement of funds under the contract will be on a reimbursement basis for expenses incurred by the applicant after the date of application and as provided under the contract. Expenditures for labor performed by a business's employees are not eligible for reimbursement.

261—119.8(15) Reporting. An applicant receiving assistance under the program shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor's office.

These rules are intended to implement Iowa Code section 15.371.

[Filed 11/20/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8435C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rulemaking related to waivers from administrative rules

The Iowa Finance Authority hereby rescinds Chapter 18, "Waivers from Administrative Rules," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 16.5 and 17A.9A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 17A.9A.

Purpose and Summary

Pursuant to Executive Order 10, the Authority is rescinding Chapter 18 and adopting a new chapter in lieu thereof. The new chapter eliminates language that is duplicative of statutory language, eliminates unnecessary and inconsistent language, removes unnecessarily restrictive terms and updates outdated language. Additionally, the following changes are adopted:

- Existing rule 265—18.2(17A,16) is removed to eliminate unnecessary language.
- The text of existing rule 265—18.7(17A,16) is moved from the rule to a new subrule in rule 265—18.8(17A,16) (after renumbering) to improve organization and clarity for petitioners.
- Existing rule 265—18.12(17A,16) is removed to eliminate language that duplicates statutory language.
- A new rule 265—18.10(17A,16) combines existing rules 265—18.13(17A,16) through 265—18.16(17A,16) to improve clarity for petitioners by placing together those rules that are only applicable after a ruling on an administrative waiver is issued in a single administrative rule.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on August 7, 2024, as **ARC 8181C**. A public hearing was held on the following date(s):

- August 27, 2024
- August 29, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on October 2, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 265—Chapter 18 and adopt the following **new** chapter in lieu thereof:

CHAPTER 18
WAIVERS FROM ADMINISTRATIVE RULES

265—18.1(17A,16) Definitions.

“*Authority*” means the Iowa finance authority created in Iowa Code section 16.1A.

“*Director*” means the same as defined in Iowa Code section 16.1(7).

“*Person*” means the same as defined in Iowa Code section 17A.2(9).

“*Waiver*” means the same as defined in Iowa Code section 17A.9A(5).

265—18.2(17A,16) Applicability of chapter. The authority may grant a waiver of a rule as permitted by Iowa Code section 17A.9A.

265—18.3(17A,16) Criteria for waiver. In response to a petition filed pursuant to this chapter, the authority may grant a waiver if the authority finds, based on clear and convincing evidence, all of the factors listed in Iowa Code section 17A.9A(2).

265—18.4(17A,16) Filing of petition. Petitions for waiver should be submitted in writing to Director, Iowa Finance Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315. If the petition relates to a pending contested case, the petition is filed in the contested case proceeding using the caption of the contested case. Petitions may be delivered by email to an email address supplied by the authority's legal counsel.

265—18.5(17A,16) Content of petition. A completed petition for waiver includes the following information where applicable and known to the petitioner:

1. The name, address, and telephone number of the person for whom a waiver is being requested and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under criteria described in Iowa Code section 17A.9A(2). This statement shall include a signed statement from the petitioner

attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

5. A history of any prior contacts between the authority and the petitioner relating to the regulated activity, license, financial assistance, or incentives affected by the proposed waiver, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.

6. Any information known to the petitioner regarding the authority's treatment of similar cases.

7. The name, address, and telephone number of any public agency or political subdivision that might be affected by the granting of a waiver.

8. The name, address, and telephone number of any person who would be adversely affected by the granting of a waiver.

9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the authority with information relevant to the waiver.

265—18.6(17A,16) Notice. The authority will acknowledge a petition within five business days of its receipt. Within 30 days of the receipt of the petition, the authority will provide notice of the pendency of the petition and a copy of the petition or a concise summary of the petition to all persons to whom notice is required by any provision of law. In addition, the authority may give notice to other persons. To accomplish this provision, the authority may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the authority attesting that notice has been provided.

265—18.7(17A,16) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply to the following:

18.7(1) When any petition for a waiver is filed within a contested case;

18.7(2) When the authority so provides by rule or order; or

18.7(3) When required to do so by statute.

265—18.8(17A,16) Authority responsibilities regarding petition for waiver.

18.8(1) Additional information. Prior to issuing an order granting or denying a waiver, the authority may request additional information from the petitioner relative to the petition and surrounding circumstances. The authority may schedule a meeting between the petitioner and the authority or, if the petition was filed in a contested case, between the petitioner and all parties to the contested case.

18.8(2) Compliance with Iowa Code standards. The authority applies the standards and burdens in Iowa Code section 17A.9A(3).

18.8(3) Final discretion. The final decision on whether the circumstances justify the granting of a waiver is in the sole discretion of the authority.

18.8(4) Ruling. An order granting or denying a waiver will be in writing and will contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is granted.

18.8(5) Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the authority will balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

18.8(6) Time for ruling. The authority will grant or deny a petition for a waiver as soon as practicable but, in any event, will do so within 90 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a pending contested case, the authority will grant or deny the petition no later than the time at which the final decision in that matter is issued. Failure of the authority to grant or deny a petition within the required time period is deemed a denial of that petition by the authority. However, the authority remains responsible for issuing an order denying a waiver.

18.8(7) *Service of order.* Within seven days of its issuance, the authority will transmit an order issued under this chapter to the petitioner or any other person entitled to such notice.

265—18.9(17A,16) Public availability. The authority will comply with the public availability and filing procedures of Iowa Code section 17A.9A(4).

265—18.10(17A,16) After issuance of a waiver.

18.10(1) *Voiding or cancellation.* A waiver is void if the material facts upon which the petition is based are not true or if material facts have been withheld. The authority may withdraw, cancel or modify a waiver if, after appropriate notice and hearing, the authority issues an order finding any of the following: facts as stated in the request are not true; material facts have been withheld; the alternative means of compliance provided in the waiver have failed to achieve the objectives of the statute or substantially equal protection of public health, safety, and welfare; or the requester has failed to comply with the conditions of the order.

18.10(2) *Violations.* Violation of a condition in a waiver order is the equivalent of a violation of the particular rule for which the waiver is granted. The recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

18.10(3) *Defense.* After the authority issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

18.10(4) *Judicial review.* Judicial review of the authority's decision to grant or deny a waiver petition may be undertaken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code section 17A.9A and chapter 16.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8432C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to rules of practice for OSHA variances

The Labor Commissioner hereby rescinds Chapter 5, "Rules of Practice for Variances," and adopts a new Chapter 5, "Rules of Practice for OSHA Variances," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking, in accordance with Executive Order 10, adopts a new Chapter 5 that provides procedures for variances from Iowa Occupational Safety and Health Administration (OSHA) requirements.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024, as **ARC 8237C**. A public hearing was held on the following date(s):

- November 5, 2024
- November 6, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on November 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
RULES OF PRACTICE FOR OSHA VARIANCES

875—5.1(17A,88) Purpose and scope. This chapter contains rules of practice for administrative proceedings to grant variances and other relief under Iowa Code sections 17A.9A, 88.5(3), 88.5(6), and 88.5(7).

875—5.2(17A,88) Definitions. The definitions and interpretations contained in Iowa Code section 88.3 are applicable to the terms when used in this chapter. As used in this chapter unless the context clearly requires otherwise:

“*Affected employee*” means an employee who would be affected by the grant or denial of a variance, or any one of the employee’s authorized representatives, such as the collective bargaining agent.

“*Commissioner*” means the labor commissioner of the department of inspections, appeals, and licensing, division of labor services.

“*Hearing examiner*” means the commissioner or the commissioner’s designee.

“*Party*” means a person admitted to participate in a hearing conducted in accordance with rules 875—5.14(88) through 875—5.21(88). An applicant for relief and any affected employee are entitled to be named parties. For the purpose of special variance hearing procedures under Iowa Code section 88.5(7), the conflicting federal regulatory agency is also a party. The department of inspections, appeals, and licensing, division of labor services, is a party without the necessity of being named.

“*Person*” means an individual, partnership, association, corporation, business trust, legal representative, an organized group of individuals, or an agency, authority or instrumentality of the state of Iowa.

“*Variance*” means waivers or variances pursuant to Iowa Code sections 17A.9A, 88.5(3), 88.5(6), and 88.5(7) unless otherwise specified.

875—5.3 Reserved.

875—5.4(88) Effect of variances. All variances granted pursuant to this chapter have only future effect. The commissioner may discretionarily decline to entertain an application for a variance on a subject or issue concerning which a citation has been issued to the employer involved, and a proceeding on the citation or a related issue concerning a proposed penalty or period of abatement is pending before the employment appeal board until the completion of such proceedings.

875—5.5(17A,88) Submission of waiver information. Information about all orders granting or denying a variance petition are submitted to the legislative services agency through the designated Internet site within 60 days of the granting or denying of the petition. The information submitted is available to the public via the website.

875—5.6 Reserved.

875—5.7(88) Temporary variance.

5.7(1) Application for variance. Any employer or class of employers desiring a variance from a standard, or portion thereof, authorized by Iowa Code section 88.5(3) may file a written application containing the information specified in subrule 5.7(2) with the commissioner.

5.7(2) Contents. An application filed pursuant to subrule 5.7(1) includes:

- a. The name and address of the applicant;
- b. The address of the place or places of employment involved;
- c. Any request for a hearing as provided in this chapter;
- d. The statements and certifications required by Iowa Code section 88.5(3); and
- e. The signature of the applicant or the applicant’s authorized representative.

5.7(3) Interim order.

a. *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The commissioner may rule ex parte upon the application.

b. *Notice of denial of application.* If an application filed pursuant to paragraph 5.7(3) “a” is denied, the applicant will be given prompt notice of the denial, which will include, or be accompanied by, a brief statement of the grounds therefor.

c. *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order will be served upon the applicant for the order and other parties and notice of the terms of the order will be made in accordance with the notice requirements of rule 875—5.5(88). It shall be a condition of the order that the affected employer shall give notice thereof to affected employees.

This rule is intended to implement Iowa Code section 88.3.

875—5.8(88) Permanent variance.

5.8(1) *Application for variance.* Any employer or class of employers desiring a variance authorized by Iowa Code section 88.5(6) may file a written application containing the information specified in subrule 5.8(2) with the commissioner.

5.8(2) *Contents.* An application filed pursuant to subrule 5.8(1) includes:

- a. The name and address of the applicant;
- b. The address of the place or places of employment involved;
- c. A description of the conditions, practices, means, methods, operations or processes used or proposed to be used by the applicant;
- d. A statement showing how the conditions, practices, means, methods, operations or processes used or proposed to be used would provide employment and places of employment to employees that are as safe and healthful as those required by the standard from which a variance is sought;
- e. A certification that the applicant has informed affected employees of the application by (1) giving a copy thereof to their authorized representative; (2) posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and (3) other appropriate means when necessary;
- f. Any request for a hearing, as provided in this chapter;
- g. A description of how employees have been informed of the application and of their right to petition the commissioner for a hearing; and
- h. The signature of the applicant or the applicant's authorized representative.

5.8(3) *Interim order.* Procedures for applications and for notifications of a denial or grant of interim orders are in the same manner as provided for in subrule 5.7(3).

This rule is intended to implement Iowa Code section 88.6.

875—5.9(88) Special variance.

5.9(1) *Application for variance.* Any employer, or class of employers, desiring a special variance authorized by Iowa Code section 88.5(7) may file a written application containing the information specified in subrule 5.9(2) with the commissioner.

5.9(2) *Contents.* An application filed pursuant to subrule 5.9(1) includes:

- a. The name and address of the applicant;
- b. The address of the place or places of employment involved;
- c. The name of the federal agency and a designation of the standard, rule, or regulation allegedly in conflict with a standard, rule, or regulation of the division of labor services;
- d. A designation of the standard, rule, or regulation of the division of labor services allegedly in conflict;
- e. A description of the conditions, means, methods, operations, and procedures used and a specific detailed statement as to how and where the conflict exists between federal agency or agencies and the division of labor services;
- f. A description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the applicant;
- g. A statement showing how the conditions, practices, means, methods, operations, or processes used or proposed to be used would take into consideration the safety and health of the employees involved;
- h. A certification that the applicant has informed employees affected of the application by (1) giving a copy thereof to their authorized representative; (2) posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and (3) other appropriate means where necessary;
- i. Any request for a hearing, as provided in this chapter;
- j. A description of how employees have been informed of the application and of their right to petition the commissioner for a hearing; and

k. The signature of the applicant or the applicant's authorized representative.

5.9(3) *Interim order.* Procedures for applications and for notifications of a denial or grant of interim orders are in the same manner as provided for in subrule 5.7(3).

This rule is intended to implement Iowa Code section 88.7.

875—5.10(88) Modification and revocation of rules or orders.

5.10(1) An affected employer or an affected employee may apply in writing to the commissioner for a modification or revocation of a rule or order issued under Iowa Code section 88.5(3), 88.5(6), or 88.5(7). The application contains:

- a. The name and address of the applicant;
- b. A description of the relief that is sought;
- c. A statement setting forth with particularity the grounds for relief;
- d. If the applicant is an employer, a certification that the applicant has informed affected employees of the application by: (1) giving a copy thereof to their authorized representative; (2) posting at the place or places where notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and (3) other appropriate means when necessary;
- e. If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employer; and
- f. Any request for a hearing as provided in this chapter.

5.10(2) The commissioner may move to modify or revoke a rule or order issued under Iowa Code section 88.5(3), 88.5(6), or 88.5(7). In such event, the commissioner will cause a notice of intention to be published in accordance with the notice requirements of rule 875—5.5(88), affording interested persons an opportunity to submit written data, views or arguments regarding the proposal and informing the affected employer and employees of their right to request a hearing, and other action as may be appropriate to notify the affected employer and employees. Any request for a hearing shall include a short and plain statement of:

- a. How the proposed modification or revocation would affect the requesting party; and
- b. What the requesting party would seek to show on the subjects or issues involved.

875—5.11(88) Action on applications. If an application filed pursuant to subrule 5.7(1), 5.8(1), 5.9(1), or 5.10(1) does not conform to the applicable rule, the commissioner may deny the application. Prompt notice of the denial of an application will be given to the applicant and will include, or be accompanied by, a brief statement of the grounds for the denial. A denial of an application pursuant to this rule shall be without prejudice to the filing of another application.

875—5.12(88) Requests for hearings on applications.

5.12(1) *Request for hearing.* Within the time allowed by a notice of the filing of an application, any affected employer or employee may file with the commissioner a request for a hearing on the application.

5.12(2) *Contents of a request for a hearing.* A request for a hearing filed pursuant to subrule 5.12(1) includes:

- a. A concise statement of facts showing how the employer or employee would be affected by the requested relief;
- b. A specification of any statement or representation in the application that is denied and a concise summary of the evidence that would be adduced in support of each denial; and
- c. Any views or arguments on any issue of fact or law presented.

875—5.13(88) Consolidation of proceedings. The commissioner may move or any party may move to consolidate or contemporaneously consider two or more proceedings that involve the same or closely related issues.

875—5.14(88) Notice of hearing.

5.14(1) *Contents.* A notice of hearing includes:

- a.* The time, place, and nature of the hearing;
- b.* The legal authority under which the hearing is to be held; and
- c.* A specification of issues of fact and law.

5.14(2) Reserved.

875—5.15(88) Manner of service. Service of any document upon any party may be made by personal delivery of, or by mailing, a copy of the document to the last-known address of the party. The person serving the document certifies the manner and the date of the service.

875—5.16(88) Hearing examiner; powers and duties.

5.16(1) *Powers.* The commissioner or the commissioner's designee presides over the hearing and has all powers necessary or appropriate to conduct a fair, full, and impartial hearing.

5.16(2) *Private consultation.* Except to the extent required for the disposition of ex parte matters, the hearing examiner may not consult a person or a party on any fact at issue unless upon notice and opportunity for all parties to participate.

5.16(3) *Disqualification.* When the commissioner or the commissioner's designee deems appropriate to be disqualified to preside, or to continue to preside, over a particular hearing the commissioner or the commissioner's designee will withdraw therefrom by notice on the record, and the commissioner shall designate another.

Any party who deems the commissioner or commissioner's designee for any reason to be disqualified to preside, or to continue to preside, over a particular hearing, may file with the commissioner a motion for disqualification and removal, supported by affidavits setting forth the alleged ground for disqualification. The commissioner's ruling on the motion is final for the purposes of judicial review under rule 875—5.24(88).

5.16(4) *Contumacious conduct; failure or refusal to appear or obey the rulings of the hearing examiner.* Contumacious conduct at any hearing before the hearing examiner is a ground for exclusion from the hearing.

If a witness or a party refuses to answer a question after being directed to do so, or refuses to obey an order to provide or permit discovery, the hearing examiner may make such orders with regard to the refusal as are just and appropriate, including an order denying the application of an applicant or regulating the contents of the record of the hearing.

5.16(5) *Referral to Iowa rules of civil procedure.* On any procedural question not regulated by Iowa Code chapter 88 or this chapter, the hearing examiner is guided by the Iowa Rules of Civil Procedure.

875—5.17(88) Prehearing conferences.

5.17(1) *Convening conference.* Upon the commissioner's own motion or the motion of a party, the commissioner or the commissioner's designee may direct the parties or the parties' counsel to meet with the commissioner for a conference to consider:

- a.* Simplification of the issues;
- b.* Necessity or desirability of amendments to documents for purpose of clarification, simplification, or limitation;
- c.* Stipulations, admissions of fact and of contents and authenticity of documents;
- d.* Limitation of the number of parties and of expert witnesses; and
- e.* Such other matters as may tend to expedite the disposition of the proceeding and to ensure a just conclusion thereof.

5.17(2) *Record of conference.* The commissioner or the commissioner's designee shall make an order that recites the action taken at the conference.

875—5.18(88) Consent findings and rules or orders.

5.18(1) *Negotiation by parties.* A reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceeding.

5.18(2) *Disposition.* In the event an agreement containing consent findings and rule or order is submitted within the time allowed therefor, the hearing examiner may accept such agreement by issuing a decision based upon the agreed findings.

875—5.19(88) Discovery. Whenever appropriate to a just disposition of any issue in a hearing, the hearing examiner may allow discovery by appropriate procedures, such as by written interrogatories upon a party, depositions, production of documents by a party, or by entry for inspection of the employment or place of employment involved. Iowa Rules of Civil Procedure are applicable to such authorized discovery procedures.

875—5.20(88) Hearings.

5.20(1) *Order of proceeding.* Except as may be ordered otherwise by the hearing examiner, the party applicant for relief proceeds first at a hearing.

5.20(2) *Burden of proof.* The party applicant has the burden of proof.

5.20(3) *Evidence.*

a. Proof for a special variance. Before a special variance may be granted, there must be proof that an actual conflict does exist. The proof required to establish such conflict is information in writing or oral testimony from a representative of the involved federal regulatory agency or agencies, substantiated by evidence, that there is a conflict between the standards, rules or regulations of the federal agency and those of the division of labor services. Also, the applicant must prove that compliance with the standard, rule or regulation of the division of labor services would subject the applicant to probable citation, penalty, or prosecution for violating such federal agency standard, rule or regulation.

b. Reserved.

5.20(4) *Transcript.* Hearings are stenographically reported or audio-recorded. Copies of the transcript may be obtained by the parties upon written application filed with the reporter and upon the payment of fees at the rate provided in the agreement with the reporter.

875—5.21(88) Decisions of hearing examiner.

5.21(1) *Proposed findings of fact, conclusions, and rules or orders.* Within ten days after receipt of notice that the transcript of the testimony has been filed or such additional time as the hearing examiner may allow, each party may file with the hearing examiner proposed findings of fact, conclusions of law, and rule or order, together with supporting briefs served on all other parties, and refer to all portions of the record and to all authorities relied upon in support of each proposal.

5.21(2) *Decision.* Within a reasonable time after the time allowed for the filing of proposed findings of fact, conclusions of law, and rule or order, the hearing examiner will issue a decision that will be reviewed and countersigned by the commissioner. The commissioner will serve the decision upon each party, and the decision is final upon the twentieth day after service thereof. The decision will include: (1) a statement of findings and conclusions, with reasons and bases therefor, upon each material issue of fact, law, or discretion presented on the record, and (2) the appropriate rule, order, relief or denial thereof.

5.21(3) *Grant of a special variance.* The grant of a special variance is renewable upon review by the commissioner at six-month intervals beginning on the date the decision becomes final under subrule 5.21(2). If at the time of the review the commissioner finds that there has been a change in the standard, rule, or regulation or a change in the interpretation of such standard, rule or regulation of the federal agency or the division of labor services affecting or resolving the conflict on which the special variance was granted, the commissioner will set the case for an evidentiary hearing in accordance with rules 875—5.14(88) through 875—5.21(88). Enforcement is stayed during review and hearing procedures under this rule.

Affected employees shall be notified by their employer of a renewal or a refusal to renew by: (1) giving a copy of the commissioner's notice to the authorized employee representative; (2) posting a copy of the commissioner's notice at the place or places where notices to employees are normally posted; and (3) other appropriate means.

875—5.22(88) Motion for summary decision.

5.22(1) Any party may, at least 20 days before the date fixed for any hearing, move with or without supporting affidavits for a summary decision in favor of the moving party on all or any part of the proceeding. Any other party may, within ten days after service of the motion, serve opposing affidavits or countermove for summary decision. The hearing examiner may discretionarily set the matter for argument and call for the submission of briefs.

5.22(2) The filing of any documents under subrule 5.22(1) shall be with the commissioner, and copies of any such documents shall be served in accordance with rule 875—5.15(88).

5.22(3) The hearing examiner may grant the motion if the pleadings, affidavits, material obtained by discovery or otherwise obtained, or matters officially noticed show that there is no genuine issue as to any material fact and that a party is entitled to summary decision. The hearing examiner may deny such motion whenever the moving party denies access to information by means of discovery to a party opposing the motion.

5.22(4) Affidavits shall set forth such facts as would be admissible in evidence in the hearing and show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion for summary decision is made and supported as provided in this rule, a party opposing the motion may not rest upon the mere allegations or denials of its own pleading. The response of the party opposing the motion must set forth specific facts showing that there is a genuine issue of fact for the hearing.

5.22(5) Should it appear from the affidavits of a party opposing the motion that the opposing party cannot for reasons stated present by affidavit facts essential to justify the opposition, the hearing examiner may deny the motion for summary decision or may order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as is just.

875—5.23(88) Summary decision.

5.23(1) *No genuine issue of material fact.*

a. Where no genuine issue of a material fact is found to have been raised, the hearing examiner may issue a decision to become final 20 days after service thereof.

b. A decision made under subrule 5.23(1) includes a statement of: (1) findings and conclusions, and the reasons or bases therefor, on all issues presented; and (2) the terms and conditions of the rule or order made.

5.23(2) *Hearings on issues of fact.* Where a genuine material question of fact is raised, the hearing examiner will, and in any other case may, set the case for an evidentiary hearing in accordance with rules 875—5.14(88) through 875—5.21(88).

875—5.24(88) Finality for purposes of judicial review. A preliminary, procedural or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy. The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms.

These rules are intended to implement Iowa Code sections 17A.9A and 88.5.

[Filed 11/13/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8448C**LABOR SERVICES DIVISION[875]****Adopted and Filed****Rulemaking related to consultative services**

The Labor Commissioner hereby rescinds Chapter 8, “Consultative Services,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking in accordance with Executive Order 10 requires a consultation division of the Iowa Occupational Safety and Health Administration (OSHA) that educates about work safety apart from the issuance of citations or penalties.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024, as **ARC 8253C**. A public hearing was held on the following date(s):

- November 5, 2024
- November 6, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on November 20, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8
CONSULTATIVE SERVICES

875—8.1(88) Purpose and scope. This chapter contains procedures for the division of labor services, bureau of consultation and education, to provide consultative services to private and public employers.

8.1(1) Services are available at no cost to employers to assist employers in establishing an effective occupational safety and health management system in order to provide employment and a place of employment that are safe and healthful. The goal is to prevent injuries and illnesses that may result from exposure to hazardous work practices and conditions. The principal assistance will be provided at the employer's work site, but off-site assistance may also be provided. Within the scope of the employer's request, the consultant will evaluate the employer's program for providing employment and a place of employment that are safe and healthful; identify specific hazards in the workplace; and provide appropriate advice and assistance in establishing or improving the employer's safety and health management system and in correcting any hazardous conditions identified. Assistance may include education and training of the employer, the employer's supervisors, and the employer's other employees to make the employer self-sufficient in ensuring safe and healthful work and working conditions.

8.1(2) Consultation is independent of Iowa OSHA enforcement, and the discovery of hazards will not mandate citations or penalties. However, the employer has a statutory obligation to protect employees, and, in certain instances, the employer will be required to take necessary protective action. An employer that corrects the hazards identified by the consultant during a comprehensive workplace survey, implements certain core elements of an effective safety and health management system, and commits to complete other core elements of an effective safety and health program may qualify for exemption from certain enforcement activities.

875—8.2(88) Definitions.

"Act" means the Iowa occupational safety and health Act, Iowa Code chapter 88.

"Compliance officer" means a compliance safety and health officer employed by Iowa OSHA enforcement.

"Consultant" means an employee of the bureau of consultation and education of the division of labor services.

"Consultation" means all activities related to the provision of consultative assistance under this chapter, including off-site consultation and on-site consultation.

"Division" means the division of labor services of the department of inspections, appeals, and licensing.

"Education" means planned and organized activity by a consultant to impart information to employers and employees to enable them to establish and maintain employment and a place of employment that are safe and healthful.

"Employee representative" means the authorized representative of employees at a site where there is a recognized labor organization representing employees.

"Hazard correction" means the elimination or control of a workplace hazard in accordance with the requirements of the Act and rules.

"Imminent danger" means a condition or practice in a place of employment that could reasonably be expected to cause death or serious physical harm immediately or before the danger can be eliminated.

"Iowa OSHA enforcement" means the unit of the division that enforces the occupational safety and health Act.

“List of hazards” means a list of all serious hazards that are identified by the consultant and the correction due dates agreed upon by the employer and the consultant.

“Off-site consultation” means consultation provided away from an employer’s work site by means such as training, education, telephone, and correspondence.

“On-site consultation” means consultation provided during a visit to an employer’s work site. “On-site consultation” includes a written report to the employer on the findings and recommendations resulting from the visit and may include training and education needed to address hazards or potential hazards at the work site.

“Other-than-serious hazard” means any condition or practice that would be classified as an other-than-serious violation of applicable standards based on criteria contained in the current Iowa Field Operations Manual.

“Programmed inspection” means an inspection scheduled based on objective or neutral criteria as set forth in the Iowa Field Operations Manual.

“Recognition and exemption program” means an achievement recognition program to recognize an employer that operates an exemplary program that results in the immediate and long-term prevention of job-related injuries and illnesses at a workplace.

“Serious hazard” means a condition or practice that would be classified as a serious violation of applicable standards, except that the element of employer knowledge will not be considered.

“Training” means the planned and organized activity of a consultant to impart skills, techniques and methodologies to employers and their employees to assist them in establishing and maintaining employment and a place of employment that are safe and healthful.

875—8.3(88) Requesting and scheduling of on-site consultation visit.

8.3(1) *Employer requests.* On-site consultation will be provided only upon the request of the employer. Any employer may specify a more limited scope for the visit by indicating working conditions, hazards, or situations on which on-site consultation shall be focused. When limited requests are made, the consultant will limit review and provide assistance only with respect to the specified working conditions, hazards, or situations. However, if in the course of the on-site visit the consultant observes hazards that are outside the scope of the request, the consultant shall treat the hazards as though they were within the scope of the request.

8.3(2) *Relationship to enforcement.* An employer may request on-site consultation to assist in the abatement of hazards cited during an enforcement inspection. However, on-site consultation may not take place after an enforcement inspection until the conditions set forth in paragraph 8.5(2)“c” have been met.

8.3(3) *Scheduling priority.* Scheduling priorities will be in accordance with the federal Consultation Policy and Procedures Manual.

875—8.4(88) Conducting a visit.

8.4(1) *Preparation.*

- a.* The consultant will conduct an on-site consultation visit only after appropriate preparation.
- b.* If a request is made during a promotional visit, a consultant may perform on-site consultation activities immediately.

8.4(2) *Structured format.*

- a.* An initial on-site consultation visit will consist of an opening conference where the employer will be advised of the responsibilities under state law, an examination of those aspects of the employer’s safety and health program that relate to the scope of the visit, a walk-through of the workplace, and a closing conference. An initial visit may include training and education for employers and employees, if the employer requests the assistance and if the need for the training and education is revealed by the walk-through of the workplace and the examination of the employer’s safety and health program. The consultant will provide a written report to the employer after the consultation.

- b.* Additional visits may be conducted as the employer requests to provide needed education and training, assistance with the employer’s safety and health program, or technical assistance in the

correction of hazards. Additional visits may also be conducted if necessary to verify the correction of serious hazards identified during previous visits.

8.4(3) *Employee participation.*

a. The consultant retains the right to confer with individual employees privately during the course of the visit in order to identify and judge the nature and extent of particular hazards within the scope of the employer's request and to evaluate the employer's safety and health program. The consultant will explain the necessity for this contact to the employer during the opening conference, and the employer must agree to this contact before a visit can proceed.

b. Employees, their representatives, and members of a workplace joint safety and health committee may participate in the on-site consultation to the extent desired by the employer. In the opening conference, the consultant shall encourage the employer to allow employee participation to the fullest extent practicable.

c. An employee representative of affected employees must be afforded an opportunity to accompany the consultant and the employer's representative during the physical inspection of the workplace.

d. If there is no employee representative, if the consultant is unable with reasonable certainty to identify an employee representative, or if the employee representative declines the offer to participate, the consultant must confer with a reasonable number of employees concerning matters of occupational safety and health.

e. The consultant is authorized to deny the right to participate to any person whose conduct interferes with the orderly conduct of the visit.

8.4(4) *Opening and closing conferences.*

a. In the opening conference, the consultant will explain the relationship between on-site consultation and OSHA enforcement activity, will explain the obligation to protect employees in the event that certain hazardous conditions are identified, and will emphasize the employer's obligation to post the list of hazards.

b. The consultant will encourage a joint opening conference with the employer and employee representatives. If there is an objection to a joint conference, the consultant will conduct separate conferences with the employer and employee representatives. The consultant must inform employees at the opening conference of the purpose of the consultation visit.

c. At the conclusion of the consultation visit, the consultant will conduct a closing conference with the employer and employee representatives, jointly or separately. The consultant will describe hazards identified during the visit and other pertinent issues related to employee safety and health.

8.4(5) *On-site activity.*

a. During the on-site consultation, the consultant will focus primarily on conditions, hazards, or situations for which the employer requested assistance. An employer may expand or reduce the scope of the request at any time during the on-site consultation. If the employer requests an expansion of the scope, the consultant will expand the scope immediately if scheduling priorities permit and the consultant is prepared. If the employer's request for expansion necessitates further preparation by the consultant or the expertise of another consultant, or if other employer requests may merit higher priority, the consultant will refer the request to the consultation manager for scheduling. If the scope of the visit is reduced, the employer shall correct serious hazards that were already identified and provide appropriate proof of correction.

b. The consultant will advise the employer of the employer's obligations and responsibilities under applicable law.

c. Within the scope of the employer's request, the consultant will review the employer's safety and health management system and provide advice on modifications or additions to make the program more effective.

d. The consultant will identify and provide advice on the correction of hazards included in the employer's request and any other safety or health hazards observed in the workplace. The consultant will conduct necessary sampling, testing, and analysis to confirm the existence of a safety or health hazard.

e. Advice and technical assistance on the correction of identified safety and health hazards may be provided to employers during and after the on-site consultation. The consultant may provide materials on approaches, means, techniques, and items commonly utilized for the elimination or control of hazards. The consultant will advise the employer of additional sources of assistance, if known.

f. When a hazard is identified in the workplace, the consultant will indicate to the employer the consultant's best judgment as to whether the hazard would be classified as serious hazard or other-than-serious hazard.

g. If the consultant determines that an identified serious hazard exists, the consultant will assist the employer to develop a specific plan to correct the hazard. The chief of the bureau of consultation and education will provide an expeditious informal discussion regarding the period of time established for the correction of a hazard or any other substantive findings of the consultant if the employer requests the informal discussion within 15 working days from receipt of the consultant's report.

h. As a condition for receiving the consultation service, the employer must agree to post the list of hazards accompanying the consultant's written report and to notify affected employees when hazards are corrected. The employer must, upon receipt, post the unedited list of hazards in a prominent place where it is readily observable by all affected employees for three working days or until the hazards are corrected, whichever is later. A copy of the list of hazards shall be made available to the employee representative who participated in the visit.

8.4(6) *Employer's obligations.*

a. An employer must take immediate action to eliminate employee exposure to a hazard that presents an imminent danger to employees. If the employer fails to take the necessary action, the chief of the bureau of consultation and education shall immediately notify the affected employees and the labor commissioner or the labor commissioner's designee.

b. An employer must also take the necessary action to eliminate or control employee exposure to any identified serious hazard and meet the employee notice requirements of paragraph 8.4(5) "h." In order to demonstrate that the necessary action is being taken, an employer may be required to submit periodic reports, permit a follow-up visit, or take similar action.

c. The chief of the bureau of consultation and education may grant an extension of time for the correction of a serious hazard when:

- (1) The employer files a request for extension;
- (2) The employer demonstrates it made a good-faith effort to correct the hazard within the established time frame;
- (3) The employer provides evidence that correction is not complete because of factors beyond the employer's reasonable control; and
- (4) The employer provides evidence that the employer is taking all available interim steps to safeguard the employees against the hazard during the correction period.

d. If the employer fails to take the action necessary to correct a serious hazard within the established time frame or any extensions thereof, the chief of the bureau of consultation and education will immediately notify the labor commissioner or the labor commissioner's designee.

e. The employer will confirm in writing to the chief of the bureau of consultation and education that the hazards have been corrected unless the consultant otherwise confirms correction of the hazards.

8.4(7) *Written report.* For each visit that results in substantive findings or recommendations, a written report will be prepared and sent to the employer. The report will include the following elements as applicable:

- a. A restatement of the employer's request;
- b. A description of the working conditions examined by the consultant;
- c. An evaluation of the employer's safety and health management system;
- d. Recommendations for making the safety and health program more effective;
- e. Identification, description, and classification of each hazard;
- f. Reference to applicable standards and regulations;
- g. Correction date for each serious hazard;
- h. Suggested means or approaches to correct hazards; and

- i.* Recommendations for additional assistance, such as medical or engineering advice.

8.4(8) Confidentiality. The bureau of consultation and education will provide, when requested, program information to the U.S. Occupational Safety and Health Administration, including information that identifies employers that have requested consultation services.

875—8.5(88) Relationship to enforcement.

8.5(1) Separation of functions. Consultation shall be conducted independently of Iowa OSHA enforcement. Except as noted in subrule 8.5(3), neither the identity of an employer requesting on-site consultation nor the file or report from the consultation activity will be provided to Iowa OSHA enforcement unless the employer fails to take the necessary action to protect employees from a serious hazard or imminent danger.

8.5(2) Effect upon scheduling.

a. An on-site consultation already in progress will have priority over compliance inspections by Iowa OSHA enforcement except as provided in paragraph 8.5(2) “*b.*” The consultant and the employer will notify the compliance officer that an on-site consultation is in progress and will request delay of the inspection until after the on-site consultation is completed.

b. The consultant will terminate an on-site consultation if one of the following compliance inspections by Iowa OSHA enforcement is about to take place:

- (1) Imminent danger investigation.
- (2) Fatality/catastrophe investigation.
- (3) Complaint or referral investigation.
- (4) Other critical inspection as determined by the labor commissioner.

c. An on-site consultation shall not take place while an enforcement inspection is in progress at the establishment. An enforcement inspection will be deemed “in progress” from the time a compliance officer initially seeks entry to the workplace to the end of the closing conference. If the employer denied the compliance officer entry to the work site, an enforcement inspection is “in progress” until the inspection is concluded, the commissioner determines that a warrant to enter will not be sought, or the commissioner determines that allowing a consultative visit to proceed is in the best interest of employee safety and health. An on-site consultation shall not take place subsequent to an enforcement inspection until the employer has been notified that no citations will be issued, or if a citation is issued, on-site consultation will take place only with regard to those citation items that have become final orders.

d. The recognition and exemption program operated by the bureau of consultation and education provides incentives and support to high-hazard employers to work with employees to develop, implement, and continuously improve the effectiveness of a safety and health management system.

(1) Programmed enforcement inspections at a work site may be deferred while the employer is working to achieve recognition status if the following conditions are met:

1. An employer requested participation in a recognition and exemption program;
2. A consultant has conducted an on-site consultation covering all conditions and operations related to occupational safety and health;
3. An employer corrected all hazards identified during the consultation visit within established time frames;
4. An employer has begun to implement all of the elements of an effective safety and health management system; and
5. An employer agrees to request an on-site consultation if major changes in working conditions or work processes occur that may introduce new hazards.

(2) Employers that meet all the requirements for recognition and exemption will be removed from the Iowa OSHA enforcement programmed inspection schedules for at least one year from the date of the certificate of recognition.

(3) Iowa OSHA enforcement shall continue to make the inspections listed below at sites that achieved recognition and exemption status and at sites that have received deferrals:

1. Imminent danger;
2. Fatality/catastrophe; and

3. Formal complaint.

8.5(3) *Effect upon enforcement.*

a. The advice of the consultant and the consultant's written report will not be binding upon a compliance officer in a subsequent enforcement inspection. In a subsequent enforcement inspection, a compliance officer is not precluded from issuing citations and proposing penalties for hazardous conditions or violations.

b. The hazard identification and correction assistance given by the consultant, the failure of the consultant to point out a specific hazard, and errors or omissions by the consultant shall not:

- (1) Be binding upon a compliance officer;
- (2) Affect the regular conduct of a compliance inspection;
- (3) Preclude the finding of alleged violations and the issuance of citations; or
- (4) Act as a defense to any enforcement action.

c. In the event of a subsequent enforcement inspection, the employer is not required to inform the compliance officer of the prior consultation visit. The employer is not required to provide a copy of the consultant's written report to the compliance officer, except to the extent that disclosure of information contained in the report is required by 29 CFR 1910.1020. During a subsequent enforcement action, if Iowa OSHA enforcement independently determines there is reason to believe that the employer failed to correct serious hazards identified during the consultation visit, created the same hazards again, or made false statements to the bureau of consultation and education in connection with the consultation program, Iowa OSHA enforcement may exercise its authority to obtain the consultation report.

d. If the employer chooses to provide a copy of the consultant's report to the compliance officer, the report may be used to determine the extent to which an inspection is required and as a factor in determining proposed penalties. Iowa OSHA enforcement may impose minimal penalties if a consultant previously identified a hazard and the employer is complying with the consultant's recommendations in good faith.

These rules are intended to implement Iowa Code chapter 88.

[Filed 11/20/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8449C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to OSHA discrimination against employees

The Labor Commissioner hereby rescinds Chapter 9, "Discrimination Against Employees," and adopts a new Chapter 9, "OSHA Discrimination Against Employees," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking in accordance with Executive Order 10 adopts a new Chapter 9 that protects employees from retaliation when employees make a work safety complaint to the Iowa Occupational Safety and Health Administration (OSHA).

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024, as **ARC 8254C**. A public hearing was held on the following date(s):

- November 5, 2024
- November 6, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on November 20, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
OSHA DISCRIMINATION AGAINST EMPLOYEES

875—9.1(88) Complaints and proceedings under or related to the Iowa occupational safety and health Act.

9.1(1) Complaints about occupational safety and health, if made in good faith, are related to the Iowa occupational safety and health Act, Iowa Code chapter 88, hereinafter referred to as the Act, and an employee is protected against discharge or discrimination caused by a complaint to the employer.

9.1(2) If an employee, with no reasonable alternative, refuses in good faith to be exposed to a dangerous condition, the employee is protected against subsequent discrimination if the following conditions are met:

a. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury.

b. The employee, where possible, first sought to:

(1) Eliminate the danger through resorting to regular statutory enforcement channels unless there has been insufficient time due to the urgency of the situation, or

(2) Obtain from the employer a correction of the dangerous condition but was unable to do so.

9.1(3) Discharge of, or discrimination against, any employee because the employee “has testified or is about to testify” in proceedings under or related to the Act extends to any statements given in the course of judicial, quasi-judicial, and administrative proceedings, including inspections, investigations, and administrative rulemaking or adjudicative functions. If the employee is giving or is about to give testimony in any proceeding under or related to the Act, the employee would be protected against discrimination resulting from such testimony.

9.1(4) An employee need not directly institute the proceedings. It is sufficient if the employee sets into motion activities of others that result in proceedings under or related to the Act.

9.1(5) An employer’s failure to pay employees for time during which the employees are engaged in walkaround inspections or in other inspection-related activities, such as responding to questions of compliance officers or participating in the opening and closing conferences, is discriminatory under Iowa Code section 88.9(3) so long as neither the number of employees participating nor the time required to express employee concerns is excessive.

9.1(6) The employee’s engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place “but for” engagement in protected activity, Iowa Code section 88.9(3) has been violated.

9.1(7) The prohibitions of Iowa Code section 88.9(3) are not limited to actions taken by employers against their own employees. A person may be chargeable with discriminatory action against an employee of another person. Iowa Code section 88.9(3) extends to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any other person in a position to discriminate against an employee.

875—9.2(88) Unprotected activities distinguished.

9.2(1) Actions taken by an employer or others that adversely affect an employee may be predicated upon nondiscriminatory grounds. The proscriptions of Iowa Code section 88.9(3) apply when the adverse action occurs because the employee has engaged in protected activities. An employee’s engagement in activities protected by the Act does not automatically render the employee immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

9.2(2) An employer would not ordinarily be in violation of Iowa Code section 88.9(3) by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety or health hazards.

9.2(3) Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety rules and regulations will not ordinarily be regarded as discriminatory action prohibited by Iowa Code section 88.9(3).

875—9.3(88) Filing of complaint for discrimination.

9.3(1) A complaint of Iowa Code section 88.9(3) discrimination may be filed by the employee or by a representative authorized to do so on the employee’s behalf. No particular form of complaint is required. A complaint should be filed with the labor commissioner.

9.3(2) Complaints not filed within 30 days of an alleged violation will ordinarily be presumed to be untimely. However, there may be circumstances that would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances (e.g., where the employer has concealed or misled the employee regarding the grounds for discharge or other adverse action or where the discrimination is in the nature of a continuing violation). The pendency of grievance-arbitration proceedings or filing with another agency, among others, are circumstances that do not justify tolling of the 30-day period.

9.3(3) Withdrawal of complaint. Attempts by an employee to withdraw a previously filed complaint will not necessarily result in termination of the labor commissioner’s investigation. However, a voluntary and uncoerced request from a complainant to withdraw the complaint will be given careful consideration and substantial weight.

875—9.4(88) Notice of determination. Iowa Code section 88.9(3) provides that within 90 days of the filing of a complaint, the labor commissioner is to notify a complainant whether prohibited discrimination occurred. This 90-day provision is considered to be directory in nature.

875—9.5(88) Arbitration or other agency proceedings.

9.5(1) The labor commissioner’s jurisdiction to entertain complaints related to Iowa Code section 88.9(3) complaints is independent of the jurisdiction of the other agencies or bodies. The labor commissioner may file action in district court regardless of the pendency of other proceedings. However, due deference should be paid to the jurisdiction of other forums established to resolve disputes that may also be related to complaints under Iowa Code section 88.9(3).

9.5(2) Postponement of determination is justified where the rights asserted in other proceedings are substantially the same as rights under Iowa Code section 88.9(3).

9.5(3) A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-to-case basis, after careful scrutiny of all available information.

These rules are intended to implement Iowa Code sections 84A.1, 84A.2, 88.2, and 88.9(3).

[Filed 11/20/24, effective 1/15/25]

[Published 12/11/24]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8433C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to construction safety and health rules

The Labor Commissioner hereby rescinds Chapter 26, “Construction Safety and Health Rules,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking, in accordance with Executive Order 10, adopts a new Chapter 26 that adopts federal rules for work safety in construction so that the Iowa Occupational Safety and Health Administration (OSHA) may monitor and, when necessary, investigate worksites to determine work safety compliance.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024, as **ARC 8238C**. A public hearing was held on the following date(s):

- November 5, 2024
- November 6, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on November 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 26 and adopt the following **new** chapter in lieu thereof:

CHAPTER 26
CONSTRUCTION SAFETY AND HEALTH RULES

875—26.1(88) Adoption by reference. Federal Safety and Health Regulations for Construction beginning at 29 CFR 1926.16 and continuing through 29 CFR, Chapter XVII, Part 1926, are hereby adopted by reference for implementation of Iowa Code chapter 88. These federal rules shall apply and be interpreted to apply to the Iowa Occupational Safety and Health Act, Iowa Code chapter 88, not the Contract Work Hours and Safety Standards Act, and shall apply and be interpreted to apply to enforcement by the Iowa labor commissioner, not the United States Secretary of Labor or the Federal Occupational Safety and Health Administration. The amendments to 29 CFR 1926 are adopted as published at:

38 Fed. Reg. 16856 (June 27, 1973)
38 Fed. Reg. 27594 (October 5, 1973)
38 Fed. Reg. 33397 (December 4, 1973)
39 Fed. Reg. 19470 (June 3, 1974)
39 Fed. Reg. 24361 (July 2, 1974)
40 Fed. Reg. 23072 (May 28, 1975)
41 Fed. Reg. 55703 (December 21, 1976)
42 Fed. Reg. 2956 (January 14, 1977)
42 Fed. Reg. 37668 (July 22, 1977)
43 Fed. Reg. 56894 (December 5, 1978)

45 Fed. Reg. 75626 (November 14, 1980)
51 Fed. Reg. 22733 (June 20, 1986)
51 Fed. Reg. 25318 (July 11, 1986)
52 Fed. Reg. 17753 (May 12, 1987)
52 Fed. Reg. 36381 (September 28, 1987)
52 Fed. Reg. 46291 (December 4, 1987)
53 Fed. Reg. 22643 (June 16, 1988)
53 Fed. Reg. 27346 (July 20, 1988)
53 Fed. Reg. 29139 (August 2, 1988)
53 Fed. Reg. 35627 (September 14, 1988)
53 Fed. Reg. 35953 (September 15, 1988)
53 Fed. Reg. 36009 (September 16, 1988)
53 Fed. Reg. 37080 (September 23, 1988)
54 Fed. Reg. 15405 (April 18, 1989)
54 Fed. Reg. 23850 (June 2, 1989)
54 Fed. Reg. 30705 (July 21, 1989)
54 Fed. Reg. 41088 (October 5, 1989)
54 Fed. Reg. 45894 (October 31, 1989)
54 Fed. Reg. 49279 (November 30, 1989)
54 Fed. Reg. 52024 (December 20, 1989)
54 Fed. Reg. 53055 (December 27, 1989)
55 Fed. Reg. 3732 (February 5, 1990)
55 Fed. Reg. 42328 (October 18, 1990)
55 Fed. Reg. 47687 (November 14, 1990)
55 Fed. Reg. 50687 (December 10, 1990)
56 Fed. Reg. 2585 (January 23, 1991)
56 Fed. Reg. 5061 (February 7, 1991)
56 Fed. Reg. 41794 (August 23, 1991)
56 Fed. Reg. 43700 (September 4, 1991)
57 Fed. Reg. 7878 (March 5, 1992)
57 Fed. Reg. 24330 (June 8, 1992)
57 Fed. Reg. 29119 (June 30, 1992)
57 Fed. Reg. 35681 (August 10, 1992)
57 Fed. Reg. 42452 (September 14, 1992)
58 Fed. Reg. 21778 (April 23, 1993)
58 Fed. Reg. 26627 (May 4, 1993)
58 Fed. Reg. 35077 (June 30, 1993)
58 Fed. Reg. 35310 (June 30, 1993)
58 Fed. Reg. 40468 (July 28, 1993)
59 Fed. Reg. 215 (January 3, 1994)
59 Fed. Reg. 6170 (February 9, 1994)
59 Fed. Reg. 36699 (July 19, 1994)
59 Fed. Reg. 40729 (August 9, 1994)
59 Fed. Reg. 41131 (August 10, 1994)
59 Fed. Reg. 43275 (August 22, 1994)
59 Fed. Reg. 65948 (December 22, 1994)
60 Fed. Reg. 9625 (February 21, 1995)
60 Fed. Reg. 11194 (March 1, 1995)
60 Fed. Reg. 33345 (June 28, 1995)
60 Fed. Reg. 34001 (June 29, 1995)
60 Fed. Reg. 36044 (July 13, 1995)
60 Fed. Reg. 39255 (August 2, 1995)

60 Fed. Reg. 50412 (September 29, 1995)
61 Fed. Reg. 5509 (February 13, 1996)
61 Fed. Reg. 9248 (March 7, 1996)
61 Fed. Reg. 31431 (June 20, 1996)
61 Fed. Reg. 41738 (August 12, 1996)
61 Fed. Reg. 43458 (August 23, 1996)
61 Fed. Reg. 46104 (August 30, 1996)
61 Fed. Reg. 56856 (November 4, 1996)
61 Fed. Reg. 59831 (November 25, 1996)
62 Fed. Reg. 1619 (January 10, 1997)
63 Fed. Reg. 1295 (January 8, 1998)
63 Fed. Reg. 1919 (January 13, 1998)
63 Fed. Reg. 3814 (January 27, 1998)
63 Fed. Reg. 13340 (March 19, 1998)
63 Fed. Reg. 17094 (April 8, 1998)
63 Fed. Reg. 20099 (April 23, 1998)
63 Fed. Reg. 33468 (June 18, 1998)
63 Fed. Reg. 35138 (June 29, 1998)
63 Fed. Reg. 66274 (December 1, 1998)
64 Fed. Reg. 22552 (April 27, 1999)
66 Fed. Reg. 5265 (January 18, 2001)
66 Fed. Reg. 37137 (July 17, 2001)
67 Fed. Reg. 57736 (September 12, 2002)
69 Fed. Reg. 31881 (June 8, 2004)
70 Fed. Reg. 1143 (January 5, 2005)
71 Fed. Reg. 2885 (January 18, 2006)
70 Fed. Reg. 76985 (December 29, 2005)
71 Fed. Reg. 10381 (February 28, 2006)
71 Fed. Reg. 36008 (June 23, 2006)
71 Fed. Reg. 76985 (August 24, 2006)
72 Fed. Reg. 64428 (November 15, 2007)
73 Fed. Reg. 75583 (December 12, 2008)
75 Fed. Reg. 12685 (March 17, 2010)
75 Fed. Reg. 27429 (May 17, 2010)
75 Fed. Reg. 48130 (August 9, 2010)
76 Fed. Reg. 33606 (June 8, 2011)
77 Fed. Reg. 17764 (March 26, 2012)
76 Fed. Reg. 80738 (December 27, 2011)
77 Fed. Reg. 23118 (April 18, 2012)
77 Fed. Reg. 37598 (June 22, 2012)
77 Fed. Reg. 42988 (July 23, 2012)
77 Fed. Reg. 46949 (August 7, 2012)
78 Fed. Reg. 23841 (April 23, 2013)
78 Fed. Reg. 32116 (May 29, 2013)
79 Fed. Reg. 20629 (April 11, 2014)
79 Fed. Reg. 56960 (September 24, 2014)
79 Fed. Reg. 57798 (September 26, 2014)
80 Fed. Reg. 25518 (May 4, 2015)
80 Fed. Reg. 60039 (October 5, 2015)
81 Fed. Reg. 16092 (March 25, 2016)
81 Fed. Reg. 16875 (March 25, 2016)
83 Fed. Reg. 56244 (November 9, 2018)

84 Fed. Reg. 21574 (May 14, 2019)
85 Fed. Reg. 8735 (February 18, 2020)
85 Fed. Reg. 53997 (August 31, 2020)
85 Fed. Reg. 57122 (September 15, 2020)

This rule is intended to implement Iowa Code sections 84A.1, 84A.2, 88.2 and 88.5.

875—26.2(88) Beryllium exposure limits. The eight-hour time-weighted average permissible exposure limit for beryllium is 0.2 micrograms per cubic liter, and the short-term exposure limit for beryllium is 2.0 micrograms per cubic meter over a 15-minute sampling period.

This rule is intended to implement Iowa Code section 88.5.

[Filed 11/13/24, effective 1/15/25]

[Published 12/11/24]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8434C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to occupational safety and health standards for agriculture

The Labor Commissioner hereby rescinds Chapter 28, “Occupational Safety and Health Standards for Agriculture,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking, in accordance with Executive Order 10, adopts a new Chapter 28 that adopts federal rules for work safety in agriculture so that the Iowa Occupational Safety and Health Administration (OSHA) may monitor and, when necessary, investigate worksites to determine work safety compliance.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024, as **ARC 8239C**. A public hearing was held on the following date(s):

- November 5, 2024
- November 6, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on November 8, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 28 and adopt the following **new** chapter in lieu thereof:

CHAPTER 28

OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

875—28.1(88) Adoption by reference. Rules 1928.1, 1928.21, 1928.51 through 1928.53 and 1928.57, as adopted by the United States Secretary of Labor, shall be rules for implementing Iowa Code chapter 88. This rule adopts the federal Occupational Safety and Health Standards for Agriculture, 29 CFR 1928 as published at 40 Fed. Reg. 18253-18268 (April 25, 1975) and as amended at:

41 Fed. Reg. 10190 (March 9, 1976)
41 Fed. Reg. 11022 (March 16, 1976)
41 Fed. Reg. 22268 (June 2, 1976)
41 Fed. Reg. 46598 (October 22, 1976)
42 Fed. Reg. 37668 (July 22, 1977)
42 Fed. Reg. 38569 (July 29, 1977)
43 Fed. Reg. 27463 (June 23, 1978)
43 Fed. Reg. 28474 (June 30, 1978)
43 Fed. Reg. 35036 (August 8, 1978)
46 Fed. Reg. 32022 (June 19, 1981)
52 Fed. Reg. 16095 (May 1, 1987)
58 Fed. Reg. 21778 (April 23, 1993)
59 Fed. Reg. 6170 (February 9, 1994)
59 Fed. Reg. 36699 (July 19, 1994)
59 Fed. Reg. 51748 (October 12, 1994)
61 Fed. Reg. 5510 (February 13, 1996)
61 Fed. Reg. 9255 (March 7, 1996)
70 Fed. Reg. 77003 (December 29, 2005)
76 Fed. Reg. 33606 (June 8, 2011)

These federal rules shall apply and be interpreted to apply to the Iowa occupational safety and health Act, Iowa Code chapter 88, and enforcement by the labor commissioner.

This rule is intended to implement Iowa Code sections 84A.1, 84A.2, 88.2 and 88.5.

[Filed 11/13/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8450C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to sanitation and shelter rules for railroad employees

The Labor Commissioner hereby rescinds Chapter 29, "Sanitation and Shelter Rules for Railroad Employees," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking in accordance with Executive Order 10 adopts a new Chapter 29 that requires railroads to have minimum sanitary and shelter standards for its employees.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 16, 2024, as **ARC 8255C**. A public hearing was held on the following date(s):

- November 5, 2024
- November 6, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on November 20, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

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

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 29 and adopt the following **new** chapter in lieu thereof:

CHAPTER 29
SANITATION AND SHELTER RULES FOR RAILROAD EMPLOYEES

875—29.1(88) Definitions. As used herein or in connection with these rules, the following terms mean:

29.1(1) *Bunk or section house.* Any building or portion thereof, excepting a family dwelling, in which persons employed by railroad companies are furnished sleeping or living accommodations.

29.1(2) *Caboose.* Any car or coach used on a train to carry the train crew.

29.1(3) *Camp car.* Any group of sleeping, dining, kitchen or recreation cars, on or off rail, furnished for the use of any one gang or group of employees.

29.1(4) *Company.* A common carrier railroad company as an employer.

29.1(5) *Employee.* Any person employed by a company to which these rules apply.

29.1(6) *Dressing room.* A room used by employees either as a dressing room, or as a restroom, or for both purposes.

29.1(7) *Number of employees.* Unless otherwise specified, the maximum number of employees going on or coming off shift within any single hour.

29.1(8) *Railroads.* Common carrier railroads.

29.1(9) *Sanitary.* Free from or effective in preventing or checking agencies injurious to health, especially filth and infection.

29.1(10) *Station.* A location where freight or passenger traffic is ordinarily received and delivered and at which an employee is regularly assigned for duty.

29.1(11) *Terminal.* A location where engine and train crews in yard and train service and switchmen, switch tenders and car clerks are regularly required to report for or relieved from duty.

29.1(12) *Toilets.* Fixtures such as flush toilets, chemical closets, incinerator-type toilets, or privies for the purpose of defecation unless otherwise specified.

29.1(13) *Usual place of employment.* The place where an employee works with a reasonable measure of continuity throughout the major part of company service.

29.1(14) *Yards.* Yards, section headquarters, and locomotive and car shops.

29.1(15) *Office work area.* A yard office; station; depot; terminal; or freight, baggage and express office that is a permanent or semipermanent stationary facility located on railroad property and a usual place of employment for the performance of clerical or work concerned with or identified with the office functions of the company.

875—29.2(88) Water supply—requirements.

29.2(1) *General specifications.* Water supplied for domestic and drinking purposes under these regulations will meet the standards of the department of health and human services. Cross-connections between a potable and nonpotable water supply are prohibited.

29.2(2) *Drinking water.*

a. An adequate supply of cool, clean, sanitary water that is satisfactory for drinking purposes will be made available to all employees.

b. When necessary, this water will be provided in suitable, clean, sterilized and sanitary containers conveniently placed for the use of employees, but not in toilet rooms. Each container will be equipped with an approved type of fountain, approved faucet or other approved dispenser.

c. Either single-service containers or drinking fountains with a sanitary angle head will be used.

29.2(3) *Required locations.*

a. Drinking water that meets the specifications of subrules 29.2(1) and 29.2(2) will be provided on the following equipment when in use and at the following locations:

- (1) All locomotives.
- (2) Baggage and express cars (where employees are assigned for work en route).
- (3) Caboose.
- (4) Camp cars.
- (5) All terminals.
- (6) All yard offices.
- (7) All stations.
- (8) All freight, baggage, and express offices (located on railroad property).
- (9) All shops and engine houses.
- (10) All bunk or section houses and section headquarters.
- (11) All lunchrooms located on railroad property.
- (12) All permanent watchmen shelters at public highway crossings.
- (13) All maintenance-of-way camps.
- (14) All office work areas.

b. Reserved.

29.2(4) *Washing facilities.*

a. *General specifications—wash basins—lavatories.*

(1) Wash basins or lavatories will be made of vitrified glazed earthenware, vitreous enameled metal, or other smooth-finished material, impervious to moisture.

(2) Twenty-four inches of trough or circular wash basin will be considered the equivalent of one wash basin. The trough or circular wash basins will not be equipped with a plug or stopper.

(3) Spring-closing, hand-operated faucets are prohibited in trough wash sinks or circular basins.

b. *Wash basins—availability.*

(1) An adequate number of wash basins or lavatories for maintaining personal cleanliness will be provided within reasonable access for all employees normally assigned to work at the following locations: all terminals; all yard offices; all stations; all freight, baggage and express offices (located on railroad property); all shops and engine houses; all lunchrooms located on railroad property; and at all bunk or section houses.

(2) One lavatory for every 10 employees or portion thereof, up to 100 persons; and over 100 persons, one lavatory for each additional 15 persons or portion thereof will be provided.

(3) At least one wash basin will be located in or adjacent to each toilet room.

c. *Wash basins—supplies.*

(1) Hot and cold running water will be supplied.

(2) Mechanical drying facilities or individual towels, either paper or cloth, will be provided.

(3) Waste receptacles will be provided for used paper towels.

(4) Soap or other suitable cleansing agent will be supplied at each wash basin.

29.2(5) *Showers, locker rooms, dressing rooms and lockers.*

a. *Showers.*

(1) Showers will be required when such facilities are necessary at specified locations to protect employees whose work involves exposure to poisonous, infectious or irritating material or to excessive dirt, heat fumes or vapors or other materials or substances injurious to health. Such shower facilities will be provided in conjunction with adequate and necessary locker or dressing room facilities.

(2) Showers will be connected to an ample supply and pressure of hot and cold water, preferably mixed.

(3) Each shower room or compartment will be constructed of material impervious to moisture.

(4) Each shower compartment will be not less than 36 inches in width and 36 inches in depth.

b. *Lockers or dressing rooms.*

(1) In all places of employment where, because of the nature of the work, it is necessary to change clothing, a locker room will be provided separated from toilet rooms by solid partitions and doors. Such

locker rooms will have not less than 80 square feet of floor space per ten employees, or portion thereof, and for each additional employee, not less than 4 additional square feet will be added thereto. Necessary furniture, such as benches and tables, will be provided.

(2) Such locker or dressing rooms will be properly lighted, heated to a minimum of 65°F and adequately ventilated. Where practicable, cross-ventilation will be provided.

c. Lockers. In all places of employment where the nature of the employment requires a change of clothing, individual metal lockers will be provided. The dimensions of metal lockers will be not less than 12 inches wide, 18 inches deep and 72 inches high, exclusive of legs or other base. The lockers will be equipped with a shelf and with not less than one clothes hook for each side or equivalent hanger bar, and sufficient openings in the door for purposes of ventilation. Wooden lockers are prohibited.

d. Separate facilities for women.

(1) In instances where women or girls are employed in such activities, the showers, lockers and dressing rooms used by them will be separate and apart from those used by the men and boys.

(2) Such facilities will have separate entrances and exits and will be so marked.

875—29.3(88) Toilets—requirements.

29.3(1) General.

a. Where running water and sewer or septic tank connections are reasonably available, flush-type toilets and urinals will be maintained.

b. Chemical toilets or privies may be used where it is impractical to install inside toilet or urinal facilities.

c. No privy, urinal, cesspool, septic tank or other receptacle for human excrement will be constructed, maintained or used, except those maintained on moving equipment, which directly or indirectly drains or discharges over, into or upon the surface of the grounds, or into the waters of the state, either directly or indirectly, unless the contents of such urinal, cesspool, septic tank or receptacle for human excrement are subjected to some recognized sterilization treatment approved by the department of health and human services.

29.3(2) Water closets.

a. Every flush toilet will have a rim flush bowl or be so constructed as to prevent the accumulation of fecal matter on the bowl. The bowl will be constructed of smooth-finished material impervious to moisture.

b. Every such bowl will be so installed that the surroundings and floor space can be easily cleaned.

c. No pan, plunger or wash-out water closets are permitted, except that pan or double-pan types are permitted for running facilities.

d. Every flush toilet will have a separate hinged seat made of a material, other than metal, that does not absorb moisture or that will be finished with substances resistant to moisture.

29.3(3) Urinals.

a. Every urinal will be made of smooth-finished material impervious to moisture.

b. Every urinal will be located within a toilet room.

c. Twenty-four inches of trough urinal will be equivalent to an individual urinal.

d. Wherever a slab urinal is installed, the floor, for a distance of not less than 24 inches in front of the urinal, will be sloped toward the urinal drain with adequate splash guards.

e. Every urinal will be flushed from a water-supplied tank or through valve, and flush valves will be installed with an approved backflow preventer. Every such tank will furnish an adequate quantity of water for each discharge for every fixture. In place of such discharge from a tank or flush valve, water may be allowed to run continuously over slab or trough urinals.

f. Clear floor space allowed for each urinal or its equivalent will be not less than two feet in width; adequate passage will be allowed.

29.3(4) Chemical toilets. All chemical toilets installed will be of a type approved by the division of labor services. Containers will be charged with chemical solution of proper strength, and their contents will be agitated daily with proper devices provided for that purpose. When containers are more than two-thirds full, the contents will be disposed of in an approved manner, such as by burial or into a public

sewer system. The stacks connecting the seats with the containers will be cleaned as often as is necessary to keep them in a clean and sanitary condition.

29.3(5) Incinerator toilets.

a. All incinerator toilets used on railroad equipment must be of a type approved by the division of labor services.

b. The installation and method of venting must be approved by the division of labor services.

c. Clear and concise instructions must be provided by the railroad company to ensure that the units are operated correctly.

29.3(6) Privies.

a. All privies will be located so as to avoid contaminating any water of the state.

b. A suitable approach, such as concrete, gravel or cinder walk, will be provided.

c. Privies will be constructed and maintained insect- and rodent-proof.

d. Every privy will be provided with a door, and such door will be self-closing.

e. The lids over the seats will be so constructed as to fall into a closed position when the seat is not occupied.

f. The pit or vault will be ventilated to the outside air by means of a stack protected at its outlet and by screens.

g. Individual seats will be provided in accordance with the ratio hereinafter set forth.

29.3(7) Toilet rooms—specifications for.

a. *Separation.*

(1) No toilet room will have direct communication with any room in which unwrapped food products are prepared, stored, handled or sold unless separated from said room by a self-closing door maintained in operating condition.

(2) Separate toilet facilities will be provided for each sex.

(3) There will be no direct connection between toilet rooms for men and women. Each will have a separate entrance, and each door leading thereto will have an automatic closing device maintained in operating condition.

b. *Compartments.* Each water closet in toilet rooms containing more than one water closet, or water closets, together with one or more urinals, will be in an individual compartment.

c. *Ventilation.* Every toilet room will be adequately ventilated.

d. *Lighting.* All toilet facilities will be well-lit during working hours.

e. *Heating.* Except privies, every toilet room will be kept adequately heated.

f. *Screens.* All windows, ventilators and other openings will be screened to prevent the entrance of insects. Toilet rooms will be kept free of insects and vermin.

29.3(8) Toilets—number required—general.

a. Adequate toilet facilities will be provided for all employees. Such facilities will be conveniently located and accessible and will be maintained in a usable and sanitary condition.

b. The following table will be used as a guide in determining the adequacy of toilet facilities.

Number of Employees	Minimum Number of Facilities
1 to 10 persons	1 toilet
11 to 24 persons	2 toilets
25 to 49 persons	3 toilets
50 to 74 persons	4 toilets
75 to 100 persons	5 toilets
Over 100	1 toilet for each additional 30 persons

c. Whenever urinals are provided, one urinal may be substituted for one toilet, provided the number of toilets will not be reduced to less than two-thirds of the number shown in the foregoing table.

29.3(9) Toilets—supplies.

a. *Toilet paper.* An adequate supply of toilet paper with holder will be supplied by the employer for each toilet.

b. *Sanitary napkins.* In all toilet rooms used by women, the company will permit the installation of dispensing machines for sanitary napkins.

29.3(10) *Toilets—location of and type.*

- a.* Appropriate toilets will be provided on the following facilities:
- (1) All locomotives, except when used in yard service or as unmanned auxiliary units.
 - (2) Baggage and express cars where employees are required to work en route.
 - (3) Caboose.
 - (4) All terminals.
 - (5) All yard offices.
 - (6) All stations or depots.
 - (7) All freight, baggage and express offices (located on railroad property).
 - (8) All engine houses and shops.
 - (9) All bunk or section houses and section headquarters.
 - (10) Lunchrooms located on railroad property.
 - (11) All maintenance-of-way camps.
 - (12) Crossing watchman locations, where practicable, and where such facilities are not otherwise readily and conveniently located.
 - (13) All office work areas.

875—29.4(88) Eating places and lunchrooms—requirements.**29.4(1)** *Eating places.*

- a.* Whenever practicable and at all permanent and semipermanent installations, an acceptable place, maintained in clean and sanitary condition, with adequate space for eating meals will be provided for employees who bring their meals to their place of employment or eat their meals prepared at the camp facilities.
- b.* Eating places will be so constructed as to permit their being readily cleaned, and they will be kept clean, in good repair and free of rodents, insects and vermin.
- c.* Kitchen cars or other camp facilities will have adequate equipment for the sanitary preparation, cooking and refrigeration of food.

29.4(2) *Lunchrooms.*

- a.* Concessionaire facilities provided by the company in lieu of direct company operation will comply with these rules with respect to adequate space, adequate food handling facilities and cleanliness.
- b.* Adequate table and seating facilities will be provided for the maximum number of employees using the room at any one time.

29.4(3) *Lunchrooms and eating places—additional requirements.*

- a. General.* The minimum area of lunchrooms, or the amount of space to be added to that required for a locker room where a lunchroom is not provided, will be based upon the maximum number of employees using the room or added space at any one time, generally in accordance with the following table:

Number of Employees	Square Feet Per Employee
25 and less	13
26 to 74	12
75 to 149	11
150 and over	10

- b. Ventilation.* Every eating place and lunchroom will be adequately ventilated. Where practicable, cross-ventilation will be provided.
- c. Lighting.* All lunchrooms will be clearly lighted at all times during hours of use.
- d. Heating.* Every lunchroom will be kept reasonably heated at all times.
- e. Screens.* The windows, ventilators and doors opening to the outside of all lunchrooms will be properly screened during the season when insects are prevalent.
- f. Waste disposal.* One or more covered receptacles, as may be necessary, will be furnished in lunchroom and eating places for the disposal of waste food and other waste matter. Such containers will be emptied regularly and cleaned as often as is necessary. The area where the receptacles are kept will be maintained free of litter occurring from the possible overflow of such receptacles.

875—29.5(88) Sleeping accommodations—requirements.

29.5(1) *Running facilities.* Camp cars, other than passenger coaches, furnished for sleeping purposes, will provide at least 50 square feet of floor space for each person with a ceiling height of not less than 7 feet. Where double bunks are used, at least 30 square feet of floor space will be provided for each person so accommodated. Where passenger coaches are furnished, the division of labor services may designate the number of persons to be housed in each coach.

- a.* Walls, floors and ceilings will be so constructed as to permit them to be readily cleaned.
- b.* Exterior windows and doors will be weather stripped during the cold weather.
- c.* Screens will be provided during the season when insects are prevalent for outer doors and windows.
- d.* Heating facilities and adequate fuel will be provided with which employees may maintain a comfortable temperature as weather conditions may require.
- e.* Lighting by windows or acceptable artificial illumination will be provided.
- f.* Ventilation will be provided by windows opening directly to the outside air.
- g.* Beds, bunks or cots with proper mattresses will be provided. Such beds, bunks or cots will be raised at least 12 inches above the floor and be located 2 feet or more from the side of any other bed, bunk or cot located in the same room and have at least 27 inches of clear space above it.

29.5(2) *Stationary facilities.*

- a.* Dormitories or bunk rooms will be of such area as to provide at least 50 square feet of floor area for each person. Where double bunks are used, at least 30 square feet of floor space will be provided for each person so accommodated. The headroom of dormitories or bunk rooms will be at least 7 feet.
- b.* Specifications for walls, floors and ceilings, lockers, drinking water, toilet accommodations, washing facilities, ventilation, lighting, heat, weather stripping, screening, beds, bunks or cots as described in running facilities of this rule will apply to stationary facilities.

875—29.6(88) Cleanliness and maintenance—requirements.

29.6(1) *General specifications.*

- a.* The company will provide for the cleanliness and maintenance of the facilities, fixtures and appurtenances referred to in these regulations. Said fixtures will be maintained in proper working order when offered for use.

- b.* Toilet rooms and washrooms will not be used for storage.

29.6(2) *Floors.* Floors will be maintained in a clean and, so far as practicable, dry condition.

29.6(3) *Screens.* Screens required by these rules will be of 16 mesh or equal.

29.6(4) *Receptacles for waste.* Suitable receptacles will be provided and used for the storage of waste and refuse and will be maintained in a sanitary condition.

29.6(5) *Yard servicing areas.* Toilet waste will not be discharged onto the ground surface from railroad cars within servicing areas of yards. Such areas will be kept free of refuse, litter, debris, vermin and rodents.

29.6(6) *Yard repair areas.* Where work is performed in repair yards or on repair tracks in the open or in open sheds of pits, adequate drainage will be provided.

29.6(7) *Running facilities.*

- a.* Locomotives and yard diesels. During use, the cabs on locomotives will be heated to a minimum of 50°F at floor level.

- (1) When required by the season of the year, doors and windows of all locomotives will be equipped with adequate protection to occupants from the elements by means of weather stripping or other device sufficient to provide equally adequate protection.

- (2) Reserved.

- b.* Cabooses.

- (1) Cabooses will be maintained in a clean and sanitary condition.

- (2) When required by the season of the year, doors and windows of cabooses will be equipped with adequate weather stripping.

(3) Every caboose used in any train in this state, regardless of service, will be provided with a stove or other adequate means of heating. Caboose will be heated to a minimum of 50°F at floor level.

c. Running facilities will be equipped with shatterproof glass.

29.6(8) Stationary facilities.

a. *Bed linen.* Where bed linen is furnished by the railroad, it will be changed and fresh clean linen supplied at least once a week or for each new occupant.

b. *Crossing watchmen facilities.* Adequate shelter will be furnished and maintained for crossing watchmen. Such shelter will be adequately heated, sealed and insulated against cold and inclement weather.

c. *Office work areas.*

(1) Office work areas will be maintained in clean condition.

(2) Office work areas will be clearly lighted at all times during hours of use.

(3) Office work areas will be heated at all times during hours of use at not less than 65°F.

(4) Office work areas will be provided with cross-ventilation when possible.

(5) Windows, ventilators and doors opening to the outside of office work areas will be properly screened during the seasons when insects are prevalent.

875—29.7(88) Conflicts resolved. In the event the rules in this chapter conflict or contain provisions inconsistent with the rules in 875—Chapter 10 or 875—Chapter 26, the applicable provisions of 875—Chapter 10 or 875—Chapter 26 prevail.

These rules are intended to implement Iowa Code section 88.5(11).

[Filed 11/20/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8436C

PAROLE BOARD[205]

Adopted and Filed

Rulemaking related to organization and general admission

The Parole Board hereby rescinds Chapter 1, "Organization and General Administration," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 904A and 906 and 2023 Iowa Acts, Senate File 514.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 and statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 1 provides information to the public about the Board's organization and responsibilities as well as how to contact the Board's business office.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024, as **ARC 8209C**. A public hearing was held on the following date(s):

- October 8, 2024
- October 15, 2024

No one attended the first public hearing. Two people attended the second public hearing but had no comments or questions. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ORGANIZATION AND GENERAL ADMINISTRATION

205—1.1(904A) Board description.

1.1(1) The board of parole is established by Iowa Code chapter 904A and consists of five members, including a chairperson and vice chairperson.

1.1(2) Requirements for the composition of the board and the selection of a chairperson, a vice chairperson, and board members are set out in Iowa Code chapter 904A.

1.1(3) As used in the rules of the board of parole, the term “board” means the Iowa board of parole.

205—1.2(904A) Board responsibilities. The statutory responsibilities of the board are set out in Iowa Code chapter 904A.

205—1.3(904A) Business location and hours. The board's business office address is Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa 50319; telephone 515.725.5757. Business hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

205—1.4(904A) Board meetings.

1.4(1) Meetings. The board may conduct the following meetings:

a. Business meeting. The board may meet each month to consider rules, procedures and other matters.

b. Public hearing. The board may conduct a public hearing to solicit input and comment on parole and work release procedures.

c. Board session. Board sessions will be held each month at any location designated by the chairperson. A board session may include:

- (1) Parole and work release case reviews;
- (2) Parole and work release interviews;
- (3) Parole rescission;
- (4) Parole discharge reviews; and
- (5) Executive clemency reviews.

1.4(2) Quorum.

a. A majority of the members of the board constitutes a quorum.

b. The chairperson designates panels composed of at least three board members to conduct board sessions except as provided herein.

1.4(3) Majority vote. All questions are decided by a majority vote of the members.

1.4(4) Minutes. The board keeps copies of the minutes of board meetings on file at the business office. The list of individuals considered by the board for action constitutes the minutes of a board session.

1.4(5) Public notice and agenda. The board establishes the date, time, and location of all meetings. The board gives public notice of all meetings pursuant to Iowa Code chapter 21. The board mails copies of, or provides by electronic means, notices of public meetings and a tentative agenda to news media that have so requested. When it is determined that an emergency meeting is required, the board notifies any news media that have requested notification as soon as the need for an emergency meeting has been decided. The nature of the emergency will be stated in the minutes.

1.4(6) Public access to meetings. Members of the public have access to board meetings as provided in Iowa Code chapter 21. Persons wishing to appear before the board will submit their requests to the business office not less than three days prior to the business meeting. Members of the public wishing to attend board meetings conducted in department of corrections penal institutions should consult, in advance, department of corrections administrative rules relating to visitation and public access.

1.4(7) Electronic meetings. The board may conduct a meeting by electronic means as provided in Iowa Code section 21.8.

These rules are intended to implement Iowa Code chapter 904A.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8437C

PAROLE BOARD[205]

Adopted and Filed

Rulemaking related to fair information practices

The Parole Board hereby rescinds Chapter 5, “Fair Information Practices,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 22, 904A and 906.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This rulemaking contains revisions of administrative rules based on requirements of Executive Order 10 as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 5 provides information to the public on how to request public records. It also provides information about confidential records that would not be subject to a public record request.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024, as **ARC 8210C**. A public hearing was held on the following date(s):

- October 8, 2024
- October 15, 2024

No one attended the first public hearing. Two people attended the second public hearing but had no comments or questions. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
FAIR INFORMATION PRACTICES

The board of parole hereby adopts, with the following exceptions and amendments, the uniform rules on agency procedure relating to fair information practices, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

205—5.1(17A,22) Definitions. As used in this chapter:

“Agency” means the board of parole.

“Confidential records” means records as defined under Iowa Code sections 22.7, 22.8, 904.601, 904.602, and 904.603.

“Open records” means those records that are defined by Iowa Code section 22.7, 22.8, 904.601, or 904.602 or any other provision of the law.

205—5.2(17A,22) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22. Agency staff will cooperate with members of the public in implementing the provisions of that chapter.

205—5.3(17A,22) Requests for access to records.

5.3(1) Location of record. A request for access to a record should be directed to the office where the record is kept. Records of current inmates, work releasees, and parolees are maintained in the office of the Board of Parole, Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa 50319; telephone 515.725.5757.

5.3(2) Office hours. Open records will be made available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

5.3(3) Request for access. Requests for access to records may be made in writing, in person, by telephone, or by electronic means if the request is for open record information. Requests should identify the particular records sought by name or description in order to facilitate the location of the record. Mail requests should include the name, address, and telephone number of the person requesting the information. A person is not required to give a reason for requesting an open record.

5.3(4) Response to requests. The custodian is authorized to grant or deny access to the record according to the provisions of Iowa Code chapter 22 and sections 904.601, 904.602, and 904.603 and this chapter. The decision to grant or deny access may be delegated to one or more designated employees. Unless the size or nature of the request requires time for compliance, the agency should comply with the request as soon as practicable. However, access to such a record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4) or for good cause. The agency should promptly inform the requester of the reason for the delay. A request to review a confidential record should be in writing and enumerate the specific grounds justifying access to the confidential record and should provide any proof necessary to establish relevant facts prior to receiving access to the record.

5.3(7) Fees.

c. Hourly fee. A reasonable hourly fee may be charged for actual agency expenses in providing requested records when the time required is in excess of 30 minutes. That hourly fee will not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform this function. Reasonable costs may also be assessed for copying and providing records through means other than electronic mail.

205—5.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination.

5.5(5) Request granted or deferred. If a request for confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been

deleted and a copy of the decision to grant the request or to defer action upon the request will be placed in the agency's public file in lieu of the original record. If the agency subsequently receives a request for access to the original record, the agency will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record.

205—5.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is the subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. Requesters should send the request to review such a record or the written statement of additions, dissents, or objections to the custodian or to the Board of Parole, Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa 50319. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by the requester, and should include the current address and telephone number of the requester or the requester's representative.

205—5.7(17A,22) Consensual disclosure of confidential records.

5.7(1) *Consent to disclose by a subject individual.* To the extent allowed by law, the subject may consent in writing to agency disclosure of confidential records.

5.7(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

5.7(3) *Obtaining information from a third party.* The board is required to obtain information to assist in making decisions regarding classification, programming, security, and administrative management. Requests to third parties for this information may involve the release of confidential information about individuals. Except as provided by law, the board may make these requests only when the individual has authorized the release.

205—5.8(17A,22) Routine use. To the extent allowed by law, the following uses are considered routine uses of all agency records:

5.8(1) Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

5.8(2) Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

5.8(3) Disclosure to the department of inspections, appeals, and licensing for matters in which it is performing services or functions on behalf of the agency.

5.8(4) Transfers of information within the agency, to other state agencies, or to units of local government as appropriate to administer the program for which the information is collected.

5.8(5) Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

5.8(6) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

205—5.9(17A,22) Disclosures without the consent of the subject.

5.9(1) Open records are routinely disclosed without the consent of the subject.

5.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Below are instances when disclosure, if lawful, will generally occur without notice to the subject:

- a.* For a routine use as permitted by law and in the particular record system.
- b.* To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.
- c.* To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.
- d.* To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.
- e.* To the legislative services agency under Iowa Code section 2A.3.
- f.* Disclosures in the course of employee disciplinary proceedings.
- g.* In response to a court order or subpoena.
- h.* In the course of ordinary deliberations during an open meeting.

205—5.10(17A,22) Release to subject.

5.10(1) The subject of a confidential record may file a written request to review confidential records about that person. However, the board need not release the following records to the subject:

- a.* The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code sections 22.7(18) and 904.602.
- b.* Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.
- c.* Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code.
- d.* Other records as otherwise authorized by law need not be released.

5.10(2) When a record has multiple subjects with interest in the confidentiality of the record, the board may take reasonable steps to protect confidential information relating to another subject.

205—5.11(17A,22) Availability of records.

5.11(1) *Open records.* Board records are open for public inspection and copying unless otherwise prohibited by current rule or law.

5.11(2) *Confidential records.* Public records as identified in Iowa Code section 22.7 may be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information.

205—5.12(17A,22) Personally identifiable information.

5.12(1) *Personally identifiable information.* This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in this rule. For each record system, this rule:

- a.* Describes the legal authority for the collection of that information and the means of storage of that information; and
- b.* Indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

5.12(2) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials that are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions

of law or because of a court order. Persons requesting copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court that maintains the official copy.

5.12(3) *Personnel files.* The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, and tax withholding information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

205—5.13(17A,22) Other groups of records available for public inspection—policies and procedures (excluding security), meeting minutes. This rule describes groups of records maintained by the board other than record systems as previously defined. These records are routinely available to the public. However, the board's files of these records may contain confidential information, as discussed in rule 205—5.11(17A,22). The following records are available:

5.13(1) *Rulemaking records.* Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

5.13(2) *Board meeting records.* Agendas, minutes, and materials presented to the board are available from the board's business office, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5(4) or that are otherwise confidential by law. Board meeting records contain information about people who participate in meetings. The information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by an individual identifier.

5.13(3) *Publications.* News releases, annual reports, project reports, and related documents are available from the board office. Board news releases, annual reports, and project reports may contain information about individuals, including board staff or members of the board councils or committees. This information is not retrieved by an individual identifier.

5.13(4) *Statistical reports.* Periodic reports of the board for various board programs are available from the board office. Statistical reports do not contain personally identifiable information.

5.13(5) *Grants.* Records on persons receiving grants for various projects or programs are available through the board's business office. These records may contain information about employees or a grantee. This information is not retrieved by an individual identifier and is not stored on an automated data processing system. The information is collected under the authority of Iowa Code chapter 904.

5.13(6) *Published materials.* The board uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

5.13(7) *Policy manuals.* The board employees' manual, containing procedures describing the board's regulations and practices, is available. Subscriptions to all or part of the employees' manual are available at the cost of production and handling. Requests for subscription information should be addressed to the board office. Policy manuals do not contain information about individuals.

5.13(8) *Other records.* All other records that are not exempt from disclosure by law are available from the board office.

205—5.14(17A,22) Applicability. This chapter does not:

5.14(1) Require the agency to index or retrieve records that contain information about an individual by that person's name or other personal identifier.

5.14(2) Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

5.14(3) Govern the maintenance or disclosure of, notification of, or access to records in the possession of the agency that are governed by the regulations of another agency.

5.14(4) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5.14(5) Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings are governed by applicable legal and constitutional principles, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

These rules are intended to implement Iowa Code section 22.11 and chapter 17A.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8438C

PAROLE BOARD[205]

Adopted and Filed

Rulemaking related to public communications and records

The Parole Board hereby rescinds Chapter 6, "Public Communications and Records," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 22, 904A and 906.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This rulemaking contains revisions to administrative rules based on the requirements of Executive Order 10 as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 6 provides information to the public on how to obtain public information and how to make submissions to the Board. It provides the public with the Iowa Code sections that specify what information is public and what is confidential concerning inmates and parolees.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024, as **ARC 8211C**. A public hearing was held on the following date(s):

- October 8, 2024
- October 15, 2024

No one attended the first public hearing. Two people attended the second public hearing but had no comments or questions. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
PUBLIC COMMUNICATIONS AND RECORDS

205—6.1(22) General. The public may obtain information or make submissions to the board through the board's business office.

205—6.2(22) Communications from persons other than victims.

6.2(1) Written communication. Communications by a person other than a victim, as defined in Iowa Code section 915.10, concerning an inmate, parolee, or work releasee should be in writing so that the communication may readily be made a permanent part of the case file. Oral communications concerning an inmate, parolee, or work releasee by a person other than a victim will be heard only with the consent of the board.

6.2(2) Disclosure to inmate. The board will place a written communication concerning an inmate, parolee, or work releasee in the case file.

205—6.3(22) Examination of board records.

6.3(1) General. The public may examine and copy public records belonging to the board pursuant to Iowa Code chapter 22 at the board's business office. An individual wishing to examine or copy a record in person should schedule an appointment with the board's business office a minimum of three working days prior to the date on which the individual will review the information in question. When making the appointment, the requesting party should specifically indicate the information desired. Complete inmate files will not be released except by court order. When photocopies of documents or copies of audiotapes or videotapes are provided, the board may require the requester to pay the cost of the copies plus a reasonable charge for copying pursuant to 205—subrule 5.3(7). The board may refer anyone requesting information that has been generated by a source outside the board to the agency or individual that generated the information.

6.3(2) Lawful custodian. The chairperson or the chairperson's designee as the lawful custodian of the records will be responsible for implementing the board's rules regarding disclosure of public records and coordination of staff in this regard and generally ensuring compliance by the staff with public records disclosure requirements.

205—6.4(904) Disclosure of information regarding inmates and parolees.

6.4(1) *Public information.* Iowa Code section 904.602(1) defines what information regarding individuals receiving services from the department of corrections may be disclosed by the board to anyone who requests such information.

6.4(2) *Confidential information regarding inmates and parolees.* Iowa Code section 904.602(2) defines information regarding individuals receiving services from the department of corrections that is confidential and will not be disclosed to the public.

a. Correspondence of a personal or confidential nature as determined by the board or the department directed to the board or the department of corrections from an individual's family, victims, or employers is confidential.

b. Communications to the board by members of the public other than public officials to the extent that the board believes that those members of the public would be discouraged from making the communications if the communications were available for general public examination is confidential.

c. Victim registrations pursuant to 205—Chapter 7. A record containing information that is both public and confidential that is reasonably segregable is not confidential after deletion of the confidential information.

6.4(3) *Exceptions.* The board may disclose confidential information described in subrule 6.4(2) as follows:

a. The board may release statistical information that does not identify particular individuals.

b. The board may disclose information to the department of corrections; public officials for use in connection with their duties relating to law enforcement, audits, and other purposes directly connected with the administration of their programs; and public and private agencies providing services to individuals. Those receiving information are subject to the same standards as the board in dissemination and redissemination of information.

c. The board may disclose information when necessary for civil or criminal court proceedings pursuant to court order. The board may seek to have the court limit disclosure of confidential information.

d. The board will give a supervised individual or former supervised individual access to the individual's own records in the custody of the board, except for those records that could result in physical or psychological harm to the individual or others, and disciplinary reports. Upon written authorization by a supervised individual or former supervised individual, the board may release information to any party included in the written release. This information is restricted to that which the individual can obtain.

These rules are intended to implement Iowa Code chapter 22 and sections 904.601, 904.602, and 904A.4.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8439C

PAROLE BOARD[205]

Adopted and Filed

Rulemaking related to victim notification

The Parole Board hereby rescinds Chapter 7, "Victim Notification," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 22, 904A and 906.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 7 provides information to members of the public in general, and victims of crime specifically, of the rights the two groups have to appear or make statements, or both, to the Board regarding releasing decisions.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on August 7, 2024, as **ARC 8186C**. A public hearing was held on the following date(s):

- August 27, 2024
- September 3, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
VICTIM NOTIFICATION

205—7.1(915) Definitions. The definitions for “notification,” “registered,” “victim,” and “violent crime” are set forth in Iowa Code section 915.10 and are incorporated herein.

“*Parole interview*” means an interview conducted by the board to consider an inmate’s prospects for parole pursuant to Iowa Code section 906.5.

205—7.2(915) Victim registration. A victim may register by filing a written request-for-registration form with the county attorney. The procedures are set out in Iowa Code section 915.12.

205—7.3(915) Victim notification. The board will notify a registered victim of a violent crime not less than 20 days prior to conducting an interview with the inmate and will inform the victim that the victim may submit an opinion concerning the release of the inmate in writing prior to the interview or may appear personally or by counsel at the interview to express an opinion concerning the inmate’s release.

205—7.4(915) Notification of decision. Whether or not the victim appears at the interview or expresses an opinion concerning the offender’s release on parole, the board will notify the victim of the board’s decision regarding release of the offender.

205—7.5(915) Written opinions concerning release. A registered victim may submit a written opinion concerning the release of the inmate to the board’s business office prior to the parole interview. The written opinion will be made a permanent part of the inmate’s file and shall be reviewed when the board considers the inmate’s prospects for parole.

205—7.6(915) Appearances at parole interviews.

7.6(1) A registered victim of a violent crime may appear in person, personally or by counsel, at a parole interview to express an opinion concerning the release of the inmate.

7.6(2) Parole interviews are generally conducted by electronic means and governed by Iowa Code chapter 21.

7.6(3) A registered victim of a violent crime should contact the board’s business office or victim liaison at least three days prior to the start of the parole interview to ensure that the board has the proper information to allow the victim to participate in the meeting.

7.6(4) During the parole interview, the board will permit the victim or victim’s counsel to express an opinion concerning the release of the inmate.

205—7.7(915,22) Disclosure of victim information. Information regarding a registered victim, as well as the existence of a registered victim in a particular case, is confidential and will not be disclosed to the public. A victim’s registration, and the substance of any opinion submitted by the victim regarding the inmate’s release, will not be disclosed to the inmate.

These rules are intended to implement Iowa Code chapter 915.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8440C

PAROLE BOARD[205]

Adopted and Filed

Rulemaking related to parole and work release considerations

The Parole Board hereby rescinds Chapter 8, “Parole and Work Release Considerations,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 904, 904A and 906.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This rulemaking contains revisions of administrative rules based on the requirements of Executive Order 10 as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 8 provides information to the public about who may be considered for parole and work release, as well as what factors the Board considers, and sets out the notification procedures.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024, as **ARC 8212C**. A public hearing was held on the following date(s):

- October 8, 2024
- October 15, 2024

No one attended the first public hearing. Two people attended the second public hearing but had no comments or questions.

One change from the Notice has been made to change “department of correctional services” to “department of corrections” in subrules 8.2(2) and 8.2(3).

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8
PAROLE AND WORK RELEASE CONSIDERATIONS

205—8.1(906) Purpose of parole and work release considerations. The board shall determine whether there is reasonable probability that an inmate committed to the custody of the department of corrections who is eligible for parole or work release can be released without detriment to the community or the inmate. The board considers the best interests of society, and parole or work release is not granted as an award of clemency.

205—8.2(904,906) Parole and work release eligibility.

8.2(1) *Mandatory sentences.* The board will not grant parole to an inmate serving a mandatory minimum sentence. The board will not grant work release to an inmate serving a mandatory minimum sentence unless the inmate is within six months of completing the mandatory minimum portion of the sentence. A parole or work release granted contrary to this rule will be rescinded. Mandatory minimum sentences are set out in the Iowa Code and are incorporated herein.

8.2(2) *Release to residential facility first.* A person on parole or work release who is serving a sentence under Iowa Code section 902.12 shall begin parole or work release in a residential facility operated by the department of corrections.

8.2(3) *Parole to detainer.* The board may grant parole to an inmate against whom a detainer has been placed by another jurisdiction. A person paroled who has a detainer lodged against the person under the provisions of Iowa Code chapter 821 may be paroled directly to the receiving state rather than to a residential facility operated by the department of corrections.

8.2(4) *Parole to other states.* The board may grant parole to another state pursuant to the provisions of the interstate compact for adult offender supervision set forth in Iowa Code chapter 907B.

205—8.3(904A) Risk assessment. The board will assess the risk of an inmate committed to the custody of the department of corrections. The board will review a risk assessment instrument approved by the board.

205—8.4(906) Parole and work release considerations.

8.4(1) *Case reviews.* The board may review the records of an inmate committed to the custody of the department of corrections and consider the inmate's prospects for parole or work release at any time. The board will notify an inmate only if the inmate is granted parole or work release, except as provided in subrule 8.14(3).

8.4(2) *Interviews.* The board may, in its discretion, interview an inmate committed to the custody of the department of corrections at any time.

8.4(3) *Frequency of inmate review.* The board will review the status of each inmate who is eligible for parole annually as directed by the Iowa Code and shall provide the inmate with notice of its parole or work release decision. The board will not place an inmate on work release for longer than 6 months in any 12-month period unless approval is given by a majority of the full board.

8.4(4) *Annual review not required.* Inmates who are not currently eligible for parole because of Iowa Code section 906.5(1) "a" are excepted from the annual review requirement of subrule 8.4(3).

8.4(5) *Department initiated review.* The department of corrections may recommend an inmate for parole or work release consideration at any time.

205—8.5(906) Parole and work release information. The board will notify the department of corrections when an inmate is to be considered for parole or work release. The receipt of notice by the department of corrections constitutes a request for updated information on the inmate. The board will

request information required for parole or work release decision making. The department of corrections will furnish updated information to the board.

205—8.6(906) Interview notice. The board or the board's designee will notify an inmate to be interviewed for parole or work release consideration of the time and purpose of the interview. Notice given to the department of corrections is considered notice to the inmate. Not less than 20 days prior to the interview, the board will also notify the department of corrections of the scheduling of the interview, and the department shall make the inmate available to the board for the interview. The interview may be conducted electronically by videoconference. However, if health, safety, or security conditions require moving the inmate to another institution or facility prior to the scheduled interview, the department of corrections will notify the board.

205—8.7(906) Continuance. The board may reschedule or continue a parole or work release interview upon its own motion or upon a showing of good cause, as determined by the board.

205—8.8(906) Factors considered in parole and work release decisions.

8.8(1) Release considerations. The board may consider the following factors and others deemed relevant to the parole and work release decisions:

- a. Previous criminal record;
- b. Nature and circumstances of the offense;
- c. Recidivism record;
- d. Convictions or behavior indicating a propensity for violence;
- e. Participation in institutional programs, including academic and vocational training;
- f. Psychiatric and psychological evaluations;
- g. Length of time served;
- h. Evidence of serious or habitual institutional misconduct;
- i. Success or failure while on probation;
- j. Prior parole or work release history;
- k. Prior refusal to accept parole or work release;
- l. History of drug or alcohol use;
- m. A parole plan formulated by the inmate;
- n. General attitude and behavior while incarcerated;
- o. Risk assessment.

8.8(2) Psychological and psychiatric evaluations. The board may request a complete psychiatric or psychological evaluation of an inmate whenever, in the opinion of the board, it would be beneficial to the board's decision. The board may routinely request an evaluation of an inmate convicted of a crime involving sexual abuse or personal violence or of an inmate who has committed assaults or violent acts while incarcerated.

205—8.9(906) Information disclosure to inmate. The board normally considers only information that has been reviewed by the inmate, except when the board deems such review not feasible. The information is considered only if the following safeguards are followed:

8.9(1) The staff of the department of corrections discusses the information with the inmate and discloses to the inmate any factual allegations if the disclosure can be done in a manner that protects confidential sources.

Factual allegations include but are not limited to:

- a. Any statements attributed to the inmate;
- b. Any allegations of criminal or antisocial behavior with or without court conviction from within or without the institution;
- c. Any allegations of threats made by the inmate;
- d. Any allegations of drug addiction or alcoholism;
- e. Any allegations regarding family history, employment or education;
- f. The inmate's disciplinary record at the institution.

8.9(2) If any information from outside institutions under the supervision of the department of corrections is to be considered by the board, and it is necessary to protect the source, the inmate will be informed of at least the following:

- a. The general substance of the information;
- b. The number of communications;
- c. The type of communications.

The inmate will be given the opportunity to respond to the information.

8.9(3) The inmate's reports from institutions under the supervision of the department of corrections, including reception reports, progress reports, medical reports, and social information or reports, should, to the extent possible, be structured so as to separate opinion from factual information. The factual information will be made available for review by the inmate; opinion information shall be confidential. Psychiatric or psychological test results or diagnoses may be deemed confidential.

205—8.10(906) Interview procedure. The board may, in its discretion, interview the inmate and consider the inmate's records with respect to history, current situation, parole and work release prospects, and other pertinent matters. If the inmate is interviewed, the board or board panel will give the inmate ample opportunity to express views and present materials.

205—8.11(906) Case review procedure. The board or board panel may consider the inmate's records and other information with respect to history, current situation, parole and work release prospects, and other pertinent matters. A case review may take place at any time and is in addition to any other required review.

205—8.12(906) Conduct at parole proceedings.

8.12(1) Parole interview proceedings are open meetings and generally conducted by electronic means and governed by Iowa Code chapter 21.

8.12(2) The board panel or panel's designee will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

8.12(3) Parole interviews are conducted electronically via videoconference. All interested persons should contact the board's business office prior to the start of the hearing to ensure that the persons have the proper information to allow the persons to view the proceedings online. Such information will also be maintained on the board's website: bop.iowa.gov.

8.12(4) Spectators, other than registered victims, do not participate in the parole proceedings.

205—8.13(904,906) Parole authorized following work release.

8.13(1) The board grants parole to an inmate on work release status if at least three members of the board agree that the inmate can be released without detriment to the community or to the inmate. If three members do not agree, the board will deny parole.

8.13(2) The board grants parole or work release to an inmate if at least three members of the board agree that the inmate can be released without detriment to the community or to the inmate. If three members do not agree, the board will deny parole or work release.

8.13(3) The board may determine if an inmate is required to provide a physical specimen to be submitted for DNA profiling as a condition of parole or work release. The board considers the deterrent effect of DNA profiling, the likelihood of repeated violations by the offender, and the seriousness of the offense. When funds have been allocated from the general fund of the state, or funds have been provided by other public or private sources, the board will order DNA profiling, if appropriate.

205—8.14(906) Notice of parole and work release decisions.

8.14(1) The board will give notice of a decision to grant parole by issuing an order for parole to the facility where the inmate in question is incarcerated.

8.14(2) The board will give notice of a decision to grant work release by issuing an order for work release to the facility where the inmate in question is incarcerated.

8.14(3) The board will give notice of a decision to deny parole or work release by issuing a notice of parole or work release denial to the facility where the inmate in question is incarcerated.

8.14(4) The board need not disclose a decision to grant or deny parole or work release to anyone other than the inmate in question and the facility where the inmate is incarcerated until at least two working days have elapsed from the date of the decision.

205—8.15(906) Parole authorized following work release.

8.15(1) The board may, at the time of granting work release, grant an offender parole contingent upon successful completion of work release. Whenever the board grants parole contingent upon successful completion of work release, it will indicate in the offender's file any special conditions for parole and that parole is contingent upon successful completion of work release.

8.15(2) The residential manager makes a determination whether the offender has successfully completed the work release. For the purpose of this rule, successful completion of work release means, at a minimum, the absence of any violent acts or threats of violence by the offender from the time the work release was authorized and either (1) the offender has completed all board-recommended programs or (2) the offender has enrolled in all recommended programs not completed and is making satisfactory progress toward completion and the facility is able to arrange for continued program participation while the offender is on parole. When an offender successfully completes the work release program, the residential manager shall certify that fact to the board in a written or electronic certification. Upon receipt of the certification, the chairperson or the chairperson's designee will cause a parole order to be issued and forwarded to the residential facility where a parole agreement will be executed by the offender with such parole conditions as the board may require in its original release decision. Parole is effective only upon execution of the parole order and agreement by the parole officer and the parolee. No further action is required by the parole board for said parole. Before the parole becomes effective, the chairperson or the chairperson's designee may refer the case back to the board for further consideration. Nothing in this rule shall prevent the parole board from considering revocations of work release or parole for violations of the parole order, agreement, or any other provision of law, as otherwise provided in the board's administrative rules.

8.15(3) If the residential manager does not certify that an offender has successfully completed work release within the six-month limit established in Iowa Code section 904.904, and if the offender's work release has not otherwise been revoked, the offender's case will be reviewed by the board. The board may grant parole, extend work release, refer the offender back to prison, or take any other action authorized by law.

8.15(4) The grant of parole contingent upon successful completion of work release will comply with subrules 8.13(1) and 8.13(2).

8.15(5) An offender who has been granted parole contingent upon successful completion of work release and who fails to successfully complete work release for whatever reason will be reviewed for further release consideration according to the board's administrative rules.

8.15(6) Parole granted under this rule is administered and supervised according to the board's administrative rules, 205—Chapters 10 and 11.

These rules are intended to implement Iowa Code chapters 904, 904A, and 906.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8441C

PAROLE BOARD[205]

Adopted and Filed

Rulemaking related to certificates of employability

The Parole Board hereby rescinds Chapter 9, “Certificates of Employability,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 904A, 906, 908, 914 and 915.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

The rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 9 provides the public with information about certificates of employability that can be earned by inmates while in prison.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on August 7, 2024, as **ARC 8187C**. A public hearing was held on the following date(s):

- August 27, 2024
- September 3, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
CERTIFICATES OF EMPLOYABILITY

205—9.1(906) Definitions. As used in this chapter:

“Direct relationship” means that the nature of criminal conduct for which the eligible offender was convicted has a direct bearing on the offender’s fitness or ability to perform one or more of the duties or responsibilities necessarily related to the certificate of employability sought.

“Eligible offender” means a person who has been convicted of one or more eligible crimes and has been sentenced to the custody of the director of the department of corrections. Persons required to register under Iowa Code chapter 692A are ineligible for the certificate of employability program.

“Employment” means any occupation, vocation, or employment or any form of vocational or educational training. For the purposes of this chapter, “employment” shall not include membership in any law enforcement agency.

“Private employer” means any person, company, corporation, labor organization or association.

“Public agency” means the state or any local subdivision thereof or any state or local department, agency, board or commission.

205—9.2(906) Certificates of employability.

9.2(1) The provisions of this chapter apply to any application by an eligible offender to any public agency or private employer for employment, except where a mandatory forfeiture, disability or bar to employment is imposed by law and has not been removed by an executive pardon. The provisions of this chapter also apply to an application to a licensing agency by an eligible offender to obtain licensure required for employment.

9.2(2) When a certificate of employability is presented to a public agency, the licensing agency cannot deny a license based on the felony conviction or based on a lack of good moral character unless the agency makes a determination that there is a direct relationship between the offense and the license sought or that the issuance of the license involves unreasonable risk to property or the safety and welfare of specific individuals or the general public.

9.2(3) A certificate of employability does not prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified therein as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or refuse to renew any license, permit or other authority or privilege in accordance with the provisions set out in this chapter.

205—9.3(906) Issuance of a certificate of employability. The department of corrections issues a certificate of employability at the time of release to an eligible offender who:

9.3(1) Receives a parole, work release, or early discharge from the board; and

9.3(2) Successfully completes one of the following:

- a.* Department of corrections registered apprenticeship program; or
- b.* National Career Readiness Certificate and the life skills program.

205—9.4(906) Certificate not to be deemed a pardon. Nothing contained in this chapter is deemed to alter, limit, or affect the manner of applying for pardons to the governor, and no certificate issued hereunder is deemed or construed to be a pardon.

These rules are intended to implement Iowa Code section 906.19.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8442C**PAROLE BOARD[205]****Adopted and Filed****Rulemaking related to parole and work release supervision**

The Parole Board hereby rescinds Chapter 10, “Parole and Work Release Supervision,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 904, 904A and 906.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This rulemaking contains revisions of administrative rules based on the requirements of Executive Order 10 as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 10 provides information to the public about who may be considered for parole and work release as well as what factors the Board considers and sets out the notification procedures.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on August 7, 2024, as **ARC 8182C**. A public hearing was held on the following date(s):

- August 27, 2024
- September 3, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

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

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
PAROLE AND WORK RELEASE SUPERVISION

205—10.1(906) Release processing. Following the issuance of an order for parole or work release by the board, the inmate will be processed for release pursuant to the rules and procedures of the department of corrections.

205—10.2(906) Parole supervision. An inmate granted parole or work release is under the supervision of the department of corrections or a receiving state pursuant to the interstate compact for adult offender supervision. Parole supervision continues until the expiration of the maximum sentence, subject to early discharge by the board or the district department.

205—10.3(906) Parole or work release agreement. A parole or work release agreement containing standard and special conditions of parole or work release will be prepared without unreasonable delay following the board's issuance of the order for parole or work release. The board may change these standard conditions from time to time. Special conditions of parole may be imposed at any time in accordance with the needs of the parolee as determined by the board and the department of corrections. The parole or work release agreement may provide for a search process and procedure of the parolee or work releasee. The parole or work release does not commence until the inmate has signed the agreement unless as otherwise prescribed by law. If the inmate is on work release status at the time parole is granted, the inmate remains on work release status until the parole agreement is signed by the parole officer and the inmate.

These rules are intended to implement Iowa Code chapters 906 and 907B.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8443C

PAROLE BOARD[205]

Adopted and Filed

Rulemaking related to parole revocation

The Parole Board hereby rescinds Chapter 11, "Parole Revocation," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 904A, 906 and 908.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This rulemaking includes revisions of administrative rules based on requirements of Executive Order 10 as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 11 provides information to the public regarding the parole revocation process.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on August 7, 2024, as **ARC 8185C**. A public hearing was held on the following date(s):

- August 27, 2024
- September 3, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
PAROLE REVOCATION

205—11.1(906) Voluntary termination of parole. Any voluntary termination of parole should be executed in writing by the parolee, reviewed by the parole officer, and approved by an administrative parole judge at a hearing. Upon the execution of the voluntary termination of parole, the parole officer files preliminary parole violation information. If a parolee's parole is terminated, the parolee shall be

returned to the custody of the department of corrections as soon as practicable. The parolee will receive credit for the time spent on parole prior to the voluntary termination of parole as determined by the administrative parole judge.

205—11.2(908) Work release day reporting revocation. When a work release day reporting inmate is subject to revocation of day reporting status, the work release day reporting inmate is entitled to all procedural protections afforded parolees pursuant to Iowa Code chapter 908 and rules 205—11.3(908) through 205—11.11(908).

205—11.3(908) Revocation initiated. Parole revocation procedures are initiated only as provided by Iowa Code chapter 908, which this rule is intended to implement.

205—11.4(908) Revocation of parole. The board or its administrative parole judge, for good cause shown, may revoke any parole previously granted. Good cause for revocation of parole includes the violation of a condition or conditions of the parole agreement or parole plan. Parole revocation procedures, including the parole revocation hearing, are governed by Iowa Code chapter 17A.

205—11.5(908) Parole violations.

11.5(1) The parole officer should report to the board any parolee who is reasonably believed to have engaged in any of the following types of behavior:

- a.* Violation of any federal or state laws that would be a felony or aggravated misdemeanor in the state of Iowa.
- b.* Any violent, assaultive, or threatening conduct.
- c.* Possession, control, or use of any firearms, imitation firearms, explosives, or dangerous weapons as defined in federal or state statutes.
- d.* Any unapproved contact with a victim, a victim's family, or with minors.
- e.* A parolee whose whereabouts are unknown and who has been unavailable for contact for 30 days, or about whom reliable information has been received indicating that the parolee is taking flight or absconding.

11.5(2) The parole officer or supervisor is authorized to report any other parolee misconduct or pattern of misconduct not required to be reported above.

205—11.6(908) Parole violation report. The parole violation report is a document prepared by the parole officer on a form or medium provided by the board specifying the parole violation charges against a parolee and containing or referring to information known to the parole officer relevant to the charges.

11.6(1) Violation report update. A violation report update may be submitted to report sufficient new information or evidence that proves or disproves violations previously charged; report new violations; note court action on charges that are being prosecuted in a criminal proceeding; expand, clarify, or correct information in an earlier report; provide the board with information not related to the violation but that may affect the board's decision regarding the appropriate disposition; provide additional requested information to the board at any time; or change the parole officer's recommendation. The parole officer files a violation report update upon the apprehension of a parolee on absconder status. The violation report update is served in accordance with subrule 11.7(1).

11.6(2) Recommendations. The parole officer will review the information available and, upon consultation of policy and with the supervisor or designee, make evidence-based, informed recommendations as to the appropriate action necessary to deal with the alleged violation.

11.6(3) District review.

a. Parole officer's responsibility. After discovery of information indicating a possible violation(s) of parole and determination by the parole officer that the violation(s) must be reported to the board, the parole officer prepares a parole violation report.

b. Parole supervisor review. After the preparation of a parole violation report, the supervisor reviews the report.

205—11.7(908) Parole revocation hearing. Following submission of a parole officer's request for a parole revocation hearing, the parole officer schedules the parole revocation hearing and creates the notice of parole revocation hearing. The parole revocation hearing is held in any county in the same judicial district as that in which the alleged parole violator had the initial appearance, or in the county from which the warrant for the arrest of the alleged parole violator was issued, unless proper venue is waived by the parolee.

11.7(1) Parole revocation hearing notice. The parole officer or board's designated officer serves the written notice to the parolee and parolee's attorney, if applicable, of the date, time, and place of the parole revocation hearing, which:

a. Includes a complete copy of the report of violations, and updated report if applicable, including all documents referred to therein except confidential material defined in 205—subrule 6.4(2).

b. Is served upon the parolee by personal service. The notice may be served by any person 18 years of age or older at least seven days prior to the parole revocation hearing unless the parolee waives the right to seven days' advance notice.

c. Informs the parolee of the purpose of the hearing, the violations of parole conditions alleged, the circumstances of the alleged violations, the possible action that may be taken as a result of the revocation proceedings, and the following rights to which the parolee is entitled at the parole revocation hearing:

(1) To appear and speak on the parolee's own behalf and to be aided by an interpreter if aid is determined to be necessary by the administrative parole judge.

(2) To be represented by an attorney or, if the parolee is indigent, the right to be represented by an attorney pursuant to Iowa Rule of Criminal Procedure 2.28 and Iowa Code section 908.2A.

(3) To remain silent.

(4) To present witnesses to testify on the parolee's behalf as to matters relevant to the alleged violation of parole.

(5) To confront and cross-examine adverse witnesses unless the administrative parole judge determines that such witnesses would be subjected to risk of harm.

(6) To present documentary evidence and any relevant material or information.

11.7(2) Testimony at parole revocation hearing. All testimony is under oath.

11.7(3) Parole revocation hearing recorded. Parole revocation hearings are electronically recorded. The recording or transcription thereof is filed and maintained by the board for at least five years from the date of the parole revocation hearing.

11.7(4) Witnesses segregated. The administrative parole judge on the judge's own motion or on the request of the parolee, parolee's counsel, or any representative of the state may order witnesses to be segregated except that the parole officer, parolee, and counsel may be present at all times at the hearing.

11.7(5) Parole revocation hearing evidence. The admissibility of evidence at parole revocation proceedings is governed by Iowa Code section 17A.14.

a. Documentary evidence. The parole officer ensures that all relevant documentary evidence is available at the hearing and has been made available to the parolee and the parolee's attorney prior to the hearing unless designated confidential. This evidence includes the violation report and statements of witnesses. When relevant documentary evidence is not available, the parole officer shall specify what evidence is unavailable and why.

b. Physical evidence. Physical evidence is ordinarily not required at the hearing. The parole officer may bring physical evidence to the hearing if the parolee has requested it or it appears necessary for the hearing, security is not endangered, and there is no other means of presenting the information.

11.7(6) Witnesses.

a. Parolee request. A parolee may request either friendly or adverse witnesses. If a witness is requested by the parolee or the parolee's attorney, the parolee or the parolee's attorney shall notify the parole officer prior to the hearing.

b. Parole officer request. If, in preparing the case prior to the hearing, the parole officer requires a particular witness to demonstrate essential facts of violation, attendance of that witness may be requested by the officer even though the parolee has not requested that witness. If a witness is requested by the parole officer, the officer will notify the parolee or the parolee's attorney.

c. *Witnesses' transportation.* All witnesses provide their own transportation.

d. *Fearful witnesses.* All witnesses who refuse to attend the hearing either because they would be subjected to risk of harm if their identities were disclosed or who, even if their identities were known, fear for their safety should they attend the hearing will be interviewed by the parole officer prior to the hearing, and their information and the reasons for their fear will be documented in writing or on the record. The officer assesses whether this testimony is necessary to proceed with prosecution of parole violations. If there are other alleged violations that merit a recommendation of revocation, this testimony may not be necessary. The administrative parole judge determines whether good cause exists to excuse a witness's attendance and documents the decision, including the reasons.

e. *Interviewing witnesses.* A parolee or the parolee's attorney has the right to speak to possible witnesses, but it is completely within the discretion of an individual witness whether to speak to or disclose the witness's whereabouts to a parolee or the parolee's attorney. The parole board staff will not attempt to influence the witness's decision.

11.7(7) Subpoenas—general. Subpoenas may be issued by the board to require the attendance of witnesses or the production of documents at parole revocation hearings.

a. *Who may request.* The parolee, the parolee's attorney, parole officer, or board staff may request that a subpoena be issued. The requested witness(es) should be contacted prior to issuance of the requested subpoena. If the parolee is pro se, the parole officer may need to make contact.

b. *To whom made.* Requests may be made directly to the administrative parole judge, the board's designated officer, or the parole officer, as appropriate. The parole officer provides the necessary information to the board in order to process the request.

c. *When made.* The request will be made prior to the scheduled hearing.

d. *Subpoena duces tecum.* The request for a subpoena duces tecum includes a declaration in support of the request. The declaration includes good cause for production of documentary evidence and specifies precisely the documentary evidence to be produced, the relevance and materiality of that evidence to the hearing, and verification that the requested witness has possession or control of the documentary evidence.

e. *Costs.* The board does not pay subpoena service fees, witness fees, or witness transportation expenses.

11.7(8) Continuances.

a. A hearing may be continued by the presiding administrative parole judge for good cause shown, either upon the presiding judge's own motion or upon the request of a party. A party's request for continuance will be made in writing to the administrative parole judge prior to the hearing. Each party may be granted a continuance. Further continuance may be granted for good cause.

b. If, because of an emergency or other good cause, a party having received timely notice is unable to attend the hearing or to request continuance within the allotted time, the presiding administrative parole judge may continue the hearing and schedule another hearing with notice to all interested parties.

c. Notice of continuance may be served upon the parolee's attorney of record for the parole revocation proceeding, in lieu of personal service upon the parolee.

d. If the notice of continuance includes allegations of violations beyond those contained in the original notice of hearing, it must be served upon the parolee or the parolee's attorney of record in accordance with subrule 11.7(1).

11.7(9) Areas of responsibility. The following areas of responsibility will apply for a parole revocation hearing.

a. The parole officer is responsible for the following:

- (1) Coordinating and scheduling location, security, and control of the parole revocation hearing;
- (2) Preparing notice of hearing forms and causing the notices to be served;
- (3) Notifying the parolee's attorney of record of the hearing date, time, and place;
- (4) Notifying all necessary state witnesses of the hearing date, time, and place;
- (5) Processing any required subpoenas on behalf of the state;
- (6) Ensuring that all relevant state documents, forms, and materials are available at the hearing;
- (7) Attending the hearing;

- (8) Arranging security for posthearing transfer of the parolee in the event incarceration is ordered;
- (9) Ensuring that a copy of the hearing summary and order is forwarded to the county jail or other institution housing the parolee, if applicable.

b. The administrative parole judge or the board's designated officer is responsible for maintaining records on all hearings and filing final orders in the electronic document management system (EDMS).

11.7(10) Parole revocation hearing.

a. At the conclusion of the adjudication stage of the hearing, the administrative parole judge determines whether the parolee has violated the conditions of parole and verbally advises the parolee of the decision.

b. If the administrative parole judge determines that the parolee has not violated the conditions of parole, the judge orders the parolee released from custody and continued on parole.

c. If the administrative parole judge finds that the parolee has violated a condition or conditions of parole, the judge makes one of the following dispositions at the parole revocation hearing:

- (1) Revocation of parole;
- (2) Revocation of parole with the parolee placed on work release;
- (3) Reinstatement of parole with the previous parole conditions;
- (4) Reinstatement of parole with a modification of the parole conditions;
- (5) Continuation of the dispositional portion of the hearing.

d. The administrative parole judge determines from the record established at the revocation hearing the date(s) of violation of parole. The judge also determines the number of days of parole that are not counted toward the discharge of the parolee's sentence. This number includes any of the days after the date of first violation during which the parolee was not incarcerated.

11.7(11) Parole revocation—hearing summary and order. The administrative parole judge or the board's designated officer shall forward a copy of the hearing summary and order to the parolee officer and the parolee's attorney, if applicable, as soon as reasonably feasible following the parole revocation hearing. The parole officer or the parolee's attorney, or both, ensures that the parolee receives a copy of the hearing summary and order. The summary of the parole revocation shall consist of a summary of the proceeding and shall contain the judge's findings of fact, conclusions of law and disposition of the matter.

11.7(12) Motions and requests. Any motion or request shall be submitted to the administrative parole judge or the board's designated officer, with copies to all parties, prior to the hearing. The parolee or parolee's attorney may submit any motion or request directly to the administrative parole judge, or designee, or through the parole officer. The board is not a designated party in EDMS and does not receive EDMS notifications.

205—11.8(908) Appeal or review.

11.8(1) The order of the administrative parole judge shall become the final decision of the board unless, within ten days of the date of the decision, the parole violator appeals the decision or a panel of the board reviews the decision on its own motion.

11.8(2) On appeal or review of the judge's decision, the chairperson or board panel's designee has all the power that the administrative parole judge would have in initially making the revocation hearing decision. The record on appeal or review shall be the record made at the parole revocation hearing conducted by the administrative parole judge. An appeal must be received at the parole business office or postmarked by the applicable date or the appeal will not be considered. An order continuing disposition or an order finding probable cause to believe an interstate compact parolee violated parole conditions is not a final order and therefore is not appealable. The board shall give notice of its decision to the parolee. The process for filing an appeal of an order of the administrative parole judge is set out in 205—Chapter 14.

205—11.9(908) Interstate compact parole revocation probable cause hearings. The board of parole may conduct interstate compact parole probable cause hearings under the same procedures as the Iowa parole revocation hearings.

11.9(1) *Interstate compact parole revocation probable cause hearings.* The board of parole, or an administrative parole judge, may conduct a probable cause hearing for a parolee from another state who is on parole in Iowa under the terms of the interstate compact on probation and parole according to the same procedures that govern parole revocation hearings for Iowa parolees who are on parole in Iowa.

11.9(2) *Interstate compact parole revocation hearings.* If an Iowa parolee was on parole outside the state of Iowa through the interstate compact on probation and parole and has been returned to Iowa following a finding of probable cause in the receiving state, a parole revocation hearing is conducted for the parolee at the Iowa facility where the parolee is incarcerated. This hearing is conducted according to the same procedures as those specified for hearings conducted for Iowa parolees who are on parole in the state of Iowa.

205—11.10(908) Parolee convicted of new offenses. A parolee who is found guilty of a new offense or who pleads guilty to a new offense, including a simple misdemeanor, has no right to the adjudication stage of the parole revocation hearing with regard to the new offense.

205—11.11(908) Waivers.

11.11(1) The parole officer informs the parolee of the parolee's rights at a revocation hearing if the parolee does not have an attorney.

11.11(2) The parole officer also informs the parolee of the opportunity to waive the parolee's right to personal appearance and consent to a parole revocation hearing that is conducted over the telephone if the parolee does not have an attorney.

11.11(3) If the parolee executes a waiver of the right to personal appearance and consent to parole revocation hearing to be conducted over the telephone, the parole revocation hearing is scheduled and conducted as a routine parole revocation hearing. If the parolee does not execute a waiver of the right to personal appearance and consent to parole revocation hearing to be conducted over the telephone, then the hearing is scheduled and may, at the discretion of the administrative parole judge, be conducted electronically by videoconference.

205—11.12(908) Conviction of a felony or aggravated misdemeanor while on parole. When a parolee is convicted and sentenced to incarceration in Iowa for a felony or aggravated misdemeanor committed while on parole, or is convicted and sentenced to incarceration in any other state of the United States or a foreign country for an offense committed while on parole and that if committed in Iowa would be a felony or aggravated misdemeanor, the parolee's parole shall be deemed revoked as of the date of the commission of the offense. The definition and requirements for an automatic revocation of parole are set out in Iowa Code sections 908.10 and 908.10A. The administrative parole judge determines the date of commission of the felony or aggravated misdemeanor offense and the date of subsequent incarceration in a state institution. Time loss will be the time between these two dates, except that the parolee receives credit for any time the parolee was incarcerated between these two dates.

These rules are intended to implement Iowa Code chapters 906 and 908.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8444C

PAROLE BOARD[205]

Adopted and Filed

Rulemaking related to parole discharge

The Parole Board hereby rescinds Chapter 12, “Parole Discharge,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 904A, 906, 908, 914 and 915.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This rulemaking contains revisions of administrative rules based on requirements of Executive Order 10 as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 12 provides information to the public regarding when someone may be discharged from parole supervision.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on August 7, 2024, as **ARC 8188C**. A public hearing was held on the following date(s):

- August 27, 2024
- September 3, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
PAROLE DISCHARGE

205—12.1(906) Discharge from parole supervision.

12.1(1) *Statutory discharge.* The board discharges a parolee from parole supervision when the term of the parolee's sentence expires.

12.1(2) *Early discharge.* The board or the supervising district department may discharge a parolee from parole supervision prior to the expiration of the term of the parolee's sentence when the board or district department determines that the parolee is able and willing to fulfill the obligations of a law-abiding citizen without further supervision.

205—12.2(906) Persons not eligible. A parolee convicted of a violation of Iowa Code section 709.3, 709.4, or 709.8 committed on or with a child or a person serving a sentence under Iowa Code section 902.12 is not eligible to be discharged from parole until the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement.

These rules are intended to implement Iowa Code section 906.15.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8445C

PAROLE BOARD[205]

Adopted and Filed

Rulemaking related to executive clemency

The Parole Board hereby rescinds Chapter 13, "Executive Clemency," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 904A, 906, 908, 914 and 915.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This rulemaking is the result of review and revisions of administrative rules based on requirements of Executive Order 10 as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 13 provides the public with information regarding the process for applying for executive clemency.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on August 7, 2024, as **ARC 8189C**. A public hearing was held on the following date(s):

- August 27, 2024
- September 3, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 13 and adopt the following new chapter in lieu thereof:

CHAPTER 13
EXECUTIVE CLEMENCY

205—13.1(902) Interviews of inmates serving life terms without the possibility of parole. The board will not grant a parole or work release to a class “A” felon serving a life term without the possibility of parole unless the governor commutes the sentence to a term of years. Administrative rules relating to the parole and work release consideration of an inmate sentenced to an indeterminate term do not apply to an inmate sentenced to a life term without the possibility of parole.

205—13.2(902) Review of inmates serving life terms. The board may, at its discretion, review the record of a class “A” felon serving a life term.

205—13.3(914) Executive clemency applications.

13.3(1) Applications to the board.

- a. A person convicted of a criminal offense may apply to the board for a recommendation to the governor for a reprieve, pardon, commutation of sentence, or remission of fines and forfeitures at any time following the person's conviction.
- b. An application for a pardon or commutation of sentence should be on the form provided by the board. The form may be obtained by contacting the board's business office or the office of the governor.
- c. An application for a reprieve or remission of fines and forfeitures should be in writing.
- d. The applicant will submit the executive clemency application to the board's business office.

13.3(2) *Applications to the governor.* Upon the request of the governor, the board will take charge of all correspondence in reference to an executive clemency application filed with the governor and will provide the governor with the board's advice and recommendation.

13.3(3) *Restoration of citizenship.*

a. A person convicted of a criminal offense may apply for restoration of citizenship at any time following the discharge of the person's sentence.

b. A person applying for restoration of citizenship will submit the form to the governor. This form may be obtained from the governor's office or from the board.

205—13.4(914,902) Board investigation. The board may investigate an application with respect to history, current situation, parole prospects and other pertinent matters. The board may consider the application or recommendation, transcripts of judicial proceedings and all documents submitted with the application, and other documents as the board determines is appropriate, and may interview, directly or through the board's agent, public officials, victims, and witnesses and other individuals as the board determines is appropriate.

205—13.5(914,902) Executive clemency recommendations.

13.5(1) *Decision.*

a. The board may recommend that the governor grant commutation of sentence to a class "A" felon serving a life term when the board agrees that the inmate should be considered for release on parole.

b. The board shall recommend that the governor grant executive clemency to a person other than a class "A" felon serving a life term when the board agrees that the person has demonstrated that the person will become or continue to be a law-abiding citizen.

c. The board may utilize the resources of the department of public safety for assistance with any part of the board's investigation.

13.5(2) *Notice of board recommendation.* The board will give notice of an executive clemency recommendation to the office of the governor and, if requested, to the inmate or applicant.

13.5(3) *Board consideration following commutation.* The board will consider the parole and work release prospects of an inmate whose sentence has been commuted by the governor.

13.5(4) *Executive clemency reconsiderations.*

a. The board may reconsider a positive or negative recommendation prior to the governor's decision when previously unknown and material information comes to light, material actions or events relevant to the application occur, the governor directs the board to further investigate the application, or good cause is otherwise shown. The procedures for reviewing an executive clemency application shall apply to the reconsideration of a recommendation.

b. The board may amend its recommendation as deemed appropriate.

205—13.6(902,915) Commutation procedure for class "A" felons.

13.6(1) *Initial review.* The board, or its designee, will initially review an application for commutation to determine whether the inmate is eligible to apply for commutation pursuant to Iowa Code section 902.2. If the inmate is not eligible to apply for commutation, the board will return the application to the applicant.

13.6(2) *Parole board commutation investigation process.*

a. If the applicant is eligible to apply for commutation, the board will conduct an investigation pursuant to subrule 13.6(2).

b. The board may consider any documents the board deems appropriate, including but not limited to the application and attached documents; transcripts of judicial proceedings; corrections information; and written recommendations, statements, and interviews of the offender, public officials, victims, and witnesses.

c. The board may interview the applicant prior to submitting the board's recommendation to the governor. The board may interview any other person the board deems appropriate, including but not limited to public officials, victims, and witnesses.

d. The board will attempt to provide notice of the commutation interview to any individual who would qualify as a victim under Iowa's victim notification law. Notice will be by regular mail to the last-known address or by electronic mail. The notice will provide a specified amount of time for the victim to provide a statement to the board regarding the application for commutation.

e. The board may hold a public hearing to receive comments from the general public on an application for commutation. The determination to hold a public hearing to receive public comments is solely at the discretion of the board.

13.6(3) *Recommendation and report.*

a. Any decision to recommend commutation for a class "A" felon will be by majority vote. The board may continue the matter until such time as the board may determine by majority vote.

b. The board may consider any factor it deems appropriate when considering commutation, including but not limited to the nature and circumstances of the crime, the number of years the applicant has served, the applicant's previous criminal record, the applicant's conduct while confined, the impact on the victim, and the public interest.

c. The board will prepare a written report of its findings and recommendations and forward its report to the governor.

d. In making such a recommendation, the board will also indicate the existence of any registered victims and communicate any opinions expressed by those victims regarding release of the inmate.

13.6(4) *Board consideration following commutation.* The board will consider the parole and work release prospects of any inmate whose life sentence has been commuted by the governor. The grant of commutation does not require the board to grant parole or work release. The board will consider parole or work release pursuant to the standards in 205—Chapter 8.

These rules are intended to implement Iowa Code sections 902.2, 902.4, and 904A.4(7) and chapters 914 and 915.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8446C

PAROLE BOARD[205]

Adopted and Filed

Rulemaking related to appeal of decisions

The Parole Board hereby rescinds Chapter 14, "Appeal of Decisions," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 904A, 906, 908, 914 and 915.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

Purpose and Summary

This rulemaking contains revisions to administrative rules based on requirements of Executive Order 10 as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 14 provides information to the public about the procedures for appealing a decision by the Board or administrative parole judge.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on August 7, 2024, as **ARC 8184C**. A public hearing was held on the following date(s):

- August 27, 2024
- September 3, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14
APPEAL OF DECISIONS

205—14.1(17A) General. An inmate, parolee, or work releasee may appeal any action of the board staff or board that affects that person except a decision to schedule a hearing or a work release transfer hearing decision, any commutation-related action, an appeal decision, or the decision to conduct an appearance by electronic means.

205—14.2(17A) Grounds. The general grounds for an appeal are claims that an action of the board staff or board was:

1. In violation of constitutional or statutory provisions;
2. In excess of the statutory authority of the board;
3. In violation of a board rule;
4. Made upon unlawful procedure;
5. Affected by other error of law;

6. Unsupported by evidence or based on incorrect or incomplete information that, if correct or complete, might have resulted in a different action; or

7. Unreasonable, arbitrary, or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of decision.

205—14.3(17A) Filing an appeal.

14.3(1) An appeal is filed in writing and includes:

- a. The nature of the board action that is the subject of the appeal.
- b. The particular agency action that is the subject of the appeal.
- c. The grounds on which relief is sought.
- d. The relief sought.

14.3(2) All grounds should be included in the same appeal, and all necessary documents and information will be attached to the appeal.

14.3(3) The appeal is submitted to the business office. An appeal is received at the parole board office, or postmarked, within ten days of the receipt of notice of the action appealed. The board is not required to consider untimely appeals.

205—14.4(17A) Board review and decision. The board of parole, a designee of the board, or a panel of three or more members of the board will review the appeal. The chairperson, the chairperson's designee, or the panel may affirm, modify, or reverse the action being appealed or may defer the action for further consideration, including granting the inmate, parolee, or work releasee an appearance before the board. The board will give notice to the inmate, parolee, or work releasee of the board's decision.

These rules are intended to implement Iowa Code chapter 17A.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8447C

PAROLE BOARD[205]

Adopted and Filed

Rulemaking related to waivers

The Parole Board hereby rescinds Chapter 15, "Waivers," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A, 904A, 906, 908, 914 and 915.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

This rulemaking is a result of review and revisions of administrative rules based on requirements of Executive Order 10 as well as statutory changes based on 2023 Iowa Acts, Senate File 514. Chapter 15 provides information to the public regarding the process for requesting a waiver from the Board.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on August 7, 2024, as **ARC 8190C**. A public hearing was held on the following date(s):

- August 27, 2024
- September 3, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on November 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 205—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15**WAIVERS**

205—15.1(17A) Definition. For purposes of this chapter, “waiver” means action by the board that suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

205—15.2(17A) Scope. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

205—15.3(17A) Applicability. The board may grant a waiver from a rule only if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional

provisions, or other provisions of law. The board may not waive requirements created or duties imposed by statute.

205—15.4(17A) Criteria for waiver. The criteria for granting a waiver are set out in Iowa Code section 17A.9A and are incorporated herein.

205—15.5(17A) Filing of petition. A petition for a waiver must be submitted in writing to the board as follows:

15.5(1) Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

15.5(2) Other. If the petition does not relate to a pending contested case, the petition may be submitted to the board's chairperson.

205—15.6(17A) Content of petition. A petition for waiver includes the following information where applicable and known to the requester:

1. The name, address, and telephone number of the person or entity for which a waiver is requested, and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in Iowa Code section 17A.9A. This statement will include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.
5. A history of any prior contacts between the board and the petitioner relating to the regulated activity affected by the proposed waiver, including a description of any notices of violation, contested case hearings, or investigative reports relating to the regulated activity within the past five years.
6. Any information known to the requester regarding the board's treatment of similar cases.
7. The name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of a waiver.
8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.
9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

205—15.7(17A) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic, electronic, or in-person meeting between the petitioner and the board's chairperson, a committee of the board, or a quorum of the board.

205—15.8(17A) Notice. The board will acknowledge a petition upon receipt. The board ensures that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided.

205—15.9(17A) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply to any petition for a waiver filed within a contested case and also apply to board proceedings for a waiver when the board so provides by rule or order or is required to do so by statute.

205—15.10(17A) Ruling. An order granting or denying a waiver will be in writing and contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

15.10(1) *Board discretion.* The final decision on whether the circumstances justify the granting of a waiver will be made at the sole discretion of the board, upon consideration of all relevant factors. Each petition for a waiver is evaluated by the board based on the unique, individual circumstances set out in the petition.

15.10(2) *Burden of persuasion.* The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

15.10(3) *Narrowly tailored exception.* A waiver, if granted, will provide the narrowest exception possible to the provisions of a rule.

15.10(4) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the board balances the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

15.10(5) *Conditions.* The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

15.10(6) *Time period of waiver.* A waiver is not permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

15.10(7) *Time for ruling.* The board may grant or deny a petition for a waiver as soon as practicable but, in any event, will do so within 120 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board will grant or deny the petition no later than the time at which the final decision in that contested case is issued.

15.10(8) *When deemed denied.* Failure of the board to grant or deny a petition within the required time period will be deemed a denial of that petition by the board. However, the board remains responsible for issuing an order denying a waiver.

15.10(9) *Service of order.* Within seven days of its issuance, any order issued under this chapter will be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

205—15.11(17A) Public availability. All orders granting or denying a waiver petition are indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying waiver petitions are public records under Iowa Code chapter 22. Some petitions or orders may contain information the board is authorized or required to keep confidential. The board may accordingly redact confidential information from petitions or orders prior to public inspection.

205—15.12(17A) Submission of waiver information. Within 60 days of granting or denying a waiver, the board will make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission will identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the authority's actions on waiver requests. If practicable, the report will also detail the extent to which granting a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

205—15.13(17A) Cancellation of a waiver. A waiver issued by the board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. The alternative means for ensuring that the public health, safety, and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

205—15.14(17A) Violations. Violation of a condition in a waiver order is treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

205—15.15(17A) Defense. After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

205—15.16(17A) Judicial review. Judicial review of a board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code chapter 17A.

[Filed 11/15/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.

ARC 8430C

UTILITIES COMMISSION[199]

Adopted and Filed

Rulemaking related to practice and procedure

The Utilities Commission hereby rescinds Chapter 7, "Practice and Procedure," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 17A.3, 474.5 and 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.2, 474.5 and 476.2.

Purpose and Summary

The Commission commenced this rulemaking under the provisions of Executive Order 10. The chapter is intended to explain the procedures governing contested case proceedings, investigations, and other proceedings conducted by the Commission or a presiding officer and to secure a fair and cost-effective determination in every such proceeding. The Commission is rescinding the existing Chapter 7 and repromulgating a new version of Chapter 7 with updated language to reflect current Commission procedures, the removal of unnecessary and unneeded language, and the reduction of restrictive terms.

The Commission issued an order adopting amendments on November 1, 2024. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0007.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on May 15, 2024, as **ARC 7939C**. A public hearing was held on the following date(s):

- June 12, 2024
- June 27, 2024

The following entities attended one or both public hearings: Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; MidAmerican Energy Company (MidAmerican); Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills); Iowa American Water Company (IAW); and Iowa Farm Bureau Federation.

Prior to repromulgation, subrule 7.15(2) provided, in part, that discovery requests must be answered or objected to within seven days. In the noticed version of subrule 7.15(2) and at the request of multiple stakeholders to extend the discovery response period, the Commission proposed to extend that period to seven business days. OCA expressed opposition to this proposed amendment while MidAmerican, Black Hills, and IAW supported the amendment.

Additionally, OCA requested the word “shall” be reinserted in subrule 7.15(2).

Other than these two issues, all stakeholders expressed support for this rulemaking.

The Commission received a written comment from OCA in which it expressed opposition to the extension of the discovery response period in subrule 7.15(2) and requested a “shall” be reinserted in subrule 7.15(2).

At the request of OCA, the Commission reinserted a “shall” in subrule 7.15(2). Also, because the noticed version of Chapter 7 was published prior to the agency name change, the Commission replaced the word “board” with “commission” throughout the chapter.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on November 1, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

No waiver provision is included in the amendments because the Commission has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on January 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
PRACTICE AND PROCEDURE

199—7.1(17A,474,476) Scope and applicability.

7.1(1) This chapter applies to contested case proceedings, investigations, and other proceedings conducted by the commission or a presiding officer, unless the proceedings have specific procedures established in commission rules. If there are no other applicable procedural rules, this chapter applies to other types of agency action, unless the commission or presiding officer orders otherwise. The rules in this chapter regarding the content and format of pleadings, testimony, workpapers, and other supporting documents apply to both paper filings and electronic filings made pursuant to 199—Chapter 14. The rules in this chapter regarding filing, service, and the necessary number of copies apply to paper filings. The filing and service of electronically filed documents are governed by 199—Chapter 14. The commission has established additional procedural requirements in other chapters as described in subrules 7.1(2) through 7.1(5).

7.1(2) Additional rules applicable only to rate cases, tariff filings, and rate regulation election by rural electric cooperatives are contained in 199—Chapter 26.

7.1(3) Notice of inquiry dockets and investigations. The commission may issue a notice of inquiry or open an investigation and establish a docket through which the inquiry or investigation can be processed. The procedural rules in this chapter apply to these dockets, unless otherwise ordered by the commission or presiding officer.

7.1(4) Reorganizations. Procedural rules applicable to reorganizations are included in rule 199—32.9(476). In the event the requirements in rule 199—32.9(476) conflict with the requirements in this chapter, the requirements in rule 199—32.9(476) are controlling.

7.1(5) Discontinuance of service incident to utility property transfer. This subrule does not apply to telecommunications service providers registered with the commission pursuant to Iowa Code section 476.95A.

a. Scope. This rule applies to discontinuance of utility service pursuant to Iowa Code section 476.20(1), which includes the termination or transfer of the right and duty to provide utility service to a community or part of a community incident to the transfer, by sale or otherwise, except a stock transfer incident to corporate reorganization.

b. Application. An application for permission to discontinue service should include a summary of the relevant facts and the grounds upon which the application should be granted. When the discontinuance of service is incident to the transfer of utility property, a joint application will be filed by the transferor utility and the transferee.

c. Approval. Within 30 days after an application is filed, the commission will approve the application or docket the application for further investigation.

d. Contested cases. Contested cases under paragraph 7.1(5)“c” will be completed within four months after the date of docketing.

e. Criteria. The application will be granted if the commission finds the utility service is no longer necessary or if the commission finds the transferee is ready, willing, and able to provide comparable utility service.

7.1(6) The purpose of these rules is to facilitate the transaction of business before the commission and to promote the just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise prescribed by law, may be waived by the commission or presiding officer pursuant to rule 199—1.3(17A,474,476).

7.1(7) Procedural orders.

a. Authority to issue procedural orders in all proceedings, including contested case proceedings, investigations, and all other dockets and matters before the commission when a majority of the commission is not available due to emergency, or for the efficient and reasonable conduct of proceedings, is granted to a single commission member. If no member of the commission is available to issue a procedural order due to emergency, or for the efficient and reasonable conduct of proceedings,

the procedural order may be issued by a presiding officer designated by the commission. If a presiding officer is not available to issue a procedural order due to an emergency, or for the efficient and reasonable conduct of proceedings, a procedural order may be issued by the general counsel of the commission.

b. Procedural orders under this subrule will be issued only upon the showing of good cause and when the prejudice to a nonmoving party is not great. The procedural order under this subrule will state that it is issued pursuant to the delegation authority established in subrule 7.1(7) and that the procedural order so issued is subject to review by the commission upon its own motion or upon motion by any party or other interested person.

199—7.2(17A,476) Definitions. Except where otherwise specifically defined by law:

“Commission” means the Iowa utilities commission or a majority thereof.

“Complainants” means persons who complain to the commission of any act or thing done or omitted to be done in violation, or claimed to be in violation, of any provision of Iowa Code chapters 476 through 476C, 477, 477A, and 477C through 479B or of any order or rule of the commission.

“Consumer advocate” means the office of consumer advocate, a division of the Iowa department of justice, referred to in Iowa Code chapter 475A.

“Contested case” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“Data request” means a discovery procedure in which the requesting party asks another person for specified information or requests the production of documents.

“Expedited proceeding” means a proceeding before the commission in which a statutory or other provision of law directs the commission to render a decision in the proceeding in six months or less.

“Filed” means accepted for filing by the commission as defined in rule 199—14.3(17A,476).

“Intervenor” means any person who, upon written petition, is permitted to intervene as a party in a specific proceeding before the commission.

“Issuance” means the date on which an order is uploaded into the commission’s electronic filing system.

“Party” means each person named or admitted as a party in a proceeding before the commission.

“Person” means the same as defined in Iowa Code section 4.1(20) and includes individuals and all forms of legal entities.

“Petitioner” or *“applicant”* means any party who, by written petition, application, or other filing, applies for or seeks relief from the commission.

“Presiding officer” means one commission member or another person designated by the commission with the authority to preside over a particular proceeding or matter before the commission.

“Proposed decision” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a proceeding that has been assigned by the commission to the presiding officer.

“Service” means service as prescribed in 199—Chapter 14.

199—7.3(17A,476) Presiding officers. Presiding officers may be designated by the commission to preside over contested cases or other proceedings and conduct hearings and have the following authority, unless otherwise ordered by the commission:

1. To regulate the course of hearings;
2. To administer oaths and affirmations;
3. To rule upon the admissibility of evidence and offers of proof;
4. To take or cause depositions to be taken;
5. To dispose of procedural matters, discovery disputes, motions to dismiss, and other motions that may involve final determination of proceedings, subject to review by the commission on its own motion or upon application by any party;
6. To certify any question to the commission, in the discretion of the presiding officer or upon direction of the commission;

7. To permit and schedule the filing of written briefs;
8. To hold appropriate conferences before, during, or after hearings;
9. To render a proposed decision and order in a contested case proceeding, or other proceeding, subject to review by the commission on its own motion or upon appeal by any party; and
10. To take any other action necessary or appropriate to the discharge of duties vested in the presiding officer, consistent with law and with the rules and orders of the commission.

199—7.4(17A,474,476) General information.

7.4(1) Orders. All orders will be issued and uploaded into the commission's electronic filing system. Orders are effective upon acceptance into the electronic filing system, unless otherwise provided in the order. Orders and other filings in dockets may be viewed in the specific docket accessed through the commission's electronic filing system.

7.4(2) Communications.

a. Electronic communications. Unless otherwise specifically provided, all electronic communications and documents are officially filed when they are accepted for filing as defined in rule 199—14.3(17A,476). The electronic service provisions in the “electronic service” rule in 199—Chapter 14 apply.

b. Paper filings. Paper filings may only be made with commission approval, except for filings made pursuant to the exceptions in rule 199—14.4(17A,476).

7.4(3) Reference to docket number. The applicable docket number(s) should be included on the first page of all filings.

7.4(4) Defective filings. Only submissions that conform to the requirements of the applicable rule, statute, or order of the commission or presiding officer will be accepted for filing, and submissions that fail to substantially conform with the applicable requirements will be considered defective and may be rejected unless waiver of the relevant requirement has been granted by the commission or presiding officer prior to filing. The commission or presiding officer may reject a filing even though commission employees have file-stamped or otherwise acknowledged receipt of the filing.

7.4(5) Service of documents.

a. Method of service.

(1) Paper service. Paper service of filings is only necessary on those parties, or persons, whom the commission has approved to receive paper service. All filings served by paper are to be filed electronically pursuant to the “electronic service” rule in 199—Chapter 14 in the appropriate docket in the electronic filing system, include a certificate of service, and be served on the consumer advocate.

(2) Electronic service. The commission's rule regarding electronic service is the “electronic service” rule in 199—Chapter 14.

(3) Service of documents containing confidential information. Parties may condition the service of unredacted documents containing confidential information on the execution of a confidentiality agreement. If the parties are unable to agree on a confidentiality agreement, they may ask the commission or presiding officer to issue an appropriate order.

b. Date of service.

(1) Paper service. Unless otherwise ordered by the commission or presiding officer, the date of service is the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person, or otherwise as the parties may agree. Although service is effective, the document is not deemed filed with the commission until it is received by the commission.

(2) The commission's rule regarding electronic service is the “electronic service” rule in 199—Chapter 14.

c. Service upon attorneys. When a party has appeared by attorney, service upon the attorney is deemed proper service upon the party.

7.4(6) Appearance. Each party to a proceeding is to file a written appearance in the docket that identifies one person upon whom the commission may electronically serve all orders, correspondence, or other documents. If a party has previously designated a person to be served on the party's behalf in all matters, filing the appearance will not change this designation, unless the party directs that the

designated person be changed in the appearance. If a person files an application, petition, or other initial pleading, or an answer or other responsive pleading on behalf of a party, containing the person's contact information, the filing of a separate appearance is not necessary. The appearance may be filed with the party's initial filing in the proceeding or may be filed after the proceeding has been docketed.

7.4(7) Representation by attorney.

a. Any party to a proceeding before the commission or a presiding officer may appear and be heard through a licensed attorney. If the attorney is not licensed by the state of Iowa, the attorney is to apply for admission pro hac vice pursuant to and abide by the provisions of Iowa Court Rule 31.14.

b. A corporation or association may appear and present evidence by an officer or employee. However, only licensed attorneys may represent a party before the commission or a presiding officer in any matter involving the exercise of legal skill or knowledge, except with the consent of the commission or presiding officer. All persons appearing in proceedings before the commission or a presiding officer shall conform to the standard of ethical conduct applicable to attorneys appearing before the courts of Iowa.

7.4(8) Expedited proceedings.

a. If a person claims that a provision of law imposes an obligation on the commission to render a decision in a contested case in six months or less, the person will include the phrase "expedited proceedings" in the caption of the first pleading filed by the person in the proceeding and set the basis for the claim in the body of the pleading. If the phrase is not so included in the caption, the commission or presiding officer may find and order that the proceeding did not commence for time calculation purposes until the date on which the first pleading containing the "expedited proceedings" phrase is filed or such other date that the commission or presiding officer finds is just and reasonable under the circumstances.

b. Shortened time limits applicable to expedited proceedings are contained in rules 199—7.9(17A,476) (pleadings and answers), 199—7.12(17A,476) (motions), 199—7.13(17A,476) (intervention), 199—7.15(17A,476) (discovery), and 199—7.26(17A,476) (appeals from proposed decisions). An additional service requirement applicable to expedited proceedings is contained in subrule 7.4(5) (service of documents).

c. A party may file a motion that proceedings be expedited even though such treatment is not mandated by statute or other provision of law. Such voluntary expedited treatment may be granted at the commission's or presiding officer's discretion in appropriate circumstances considering the needs of the parties and the interests of justice. In these voluntary expedited proceedings, the commission or presiding officer may shorten the filing dates or other procedures established in this chapter. The shortened time limits and additional service requirement applicable to expedited proceedings established in this chapter and listed in subrule 7.4(8) do not apply to voluntary expedited proceedings under this paragraph unless ordered by the commission or presiding officer. If a party requests an expedited proceeding pursuant to this paragraph, the party will include "Expedited Proceedings" in the title.

199—7.5(17A,476) Time requirements.

7.5(1) Time is computed as provided in Iowa Code section 4.1(34).

7.5(2) In response to a request or on its own motion, for good cause, the commission or presiding officer may extend or shorten the time to take any action, except as precluded by statute.

199—7.6(17A,476) Electronic proceedings. The commission or presiding officer may hold proceedings by telephone conference call or other electronic means, such as a webinar service, in which all parties have an opportunity to participate. The commission or presiding officer will determine the location of the parties and witnesses for electronic proceedings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when locations are determined.

199—7.7(17A,476) Electronic information. Filing of electronic information shall comply with the commission's rules on electronic filing in 199—Chapter 14 and the commission's published standards for electronic information, available on the commission's website at iuc.iowa.gov or from the commission's customer service center.

199—7.8(17A,476) Delivery of notice of hearing. When the commission or presiding officer issues an order containing a notice of hearing, delivery of the order will be by electronic notice through the electronic filing system, and to those persons who have been approved to receive paper documents, unless otherwise ordered.

199—7.9(17A,476) Pleadings and answers.

7.9(1) Pleadings. Pleadings may be filed pursuant to statute, rule, or order or filed to initiate a docket.

7.9(2) Answers.

a. Unless otherwise ordered by the commission or presiding officer, answers to complaints, petitions, applications, or other pleadings shall be filed with the commission within 20 days after the day on which the pleading being answered was filed in the commission's electronic filing system and served upon the respondent or other party. However, when a provision of law requires that the commission issue a decision in the case in six months or less, the answer shall be filed with the commission within ten days of service of the pleading being answered unless otherwise ordered by the commission or presiding officer.

b. An answer will specifically admit, deny, or otherwise answer all material allegations of the pleadings and also briefly set forth the affirmative grounds relied upon to support each answer.

c. Any party who deems the complaint, petition, application, or other pleading insufficient to show a breach of legal duty or grounds for relief may move to dismiss instead of, or in addition to, answering.

d. A party may apply for a more definitive and detailed statement instead of, or in addition to, answering, if appropriate.

7.9(3) Amendments to pleadings. Amendments to pleadings may be allowed upon proper motion at any time during the pendency of the proceeding upon such terms as are just and reasonable.

199—7.10(17A,476) Prefiled testimony and exhibits.

7.10(1) The commission or presiding officer may order the parties to file prefiled testimony and exhibits prior to the hearing. The use of prefiled testimony is the standard method for providing testimony in contested cases and other proceedings.

7.10(2) Prefiled testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. If possible, each line should be separately numbered. When a witness who has submitted prefiled testimony takes the stand, the witness does not ordinarily repeat the written testimony or give new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. However, the witness may be permitted to correct or update prefiled testimony on the stand and, in appropriate circumstances and with the approval of the commission or presiding officer, may give a summary of the prefiled testimony. If the witness has more than three substantive corrections to make to the prefiled testimony or exhibits, then the corrected testimony or exhibits shall be filed in the appropriate docket in the commission's electronic filing system at least three days prior to the hearing. The prefiled testimony and any exhibits are to be marked and identified in conformance with the commission's approved naming convention provided on the commission's electronic filing system website or as directed in a commission order.

7.10(3) Prefiled testimony and exhibits are to be accompanied by an affidavit in substantially the following form: "I, [person's name], being first duly sworn on oath, state that I am the same [person's name] identified in the testimony being filed with this affidavit, that I have caused the testimony [and exhibits] to be prepared and am familiar with its contents, and that the testimony [and exhibits] is true and correct to the best of my knowledge and belief as of the date of this affidavit."

7.10(4) Prefiled testimony, exhibits, and supporting documents shall be filed in the commission's electronic filing system in conformance with this rule and the following:

a. All supporting workpapers.

(1) The commission's standards for electronic information, which are available on the commission's website or from the commission's customer service center, govern the filing of electronic workpapers in native electronic formats.

(2) Workpapers' underlying analyses and data presented in exhibits should be explicitly referenced within the exhibit, including the name and other identifiers (e.g., cell coordinates) for electronic workpapers and volume, tab, and page numbers for other workpapers.

(3) The source of any number used in a workpaper that was not generated by that workpaper will be identified.

b. The derivation or source of all numbers used in either testimony or exhibits that were not generated by workpapers.

c. Copies of any specific studies or financial literature relied upon or complete citations for them if publicly available.

d. Electronic copies, in native electronic format, of all computer-generated exhibits that comply with the commission's standards for electronic information, which are available on the commission's website or from the commission's customer service center.

7.10(5) The commission's standards for electronic information, which are available on the commission's website or from the commission's customer service center, and the electronic filing rules in 199—Chapter 14 govern the filing of prefiled testimony and exhibits.

7.10(6) If a party has filed part or all of its prefiled testimony and exhibits as confidential and then later withdraws the claim of confidentiality for part or all of the testimony and exhibits, or if the commission denies the request to hold the testimony and exhibits confidential, the party shall refile the testimony and exhibits with the information made public.

199—7.11(17A,476) Documentary evidence in books and materials. When documentary evidence being offered is contained in a book, report, or other document, the offering party will file only the material, relevant portions in an exhibit.

199—7.12(17A,476) Motions. Motions, unless made during hearing, are to be in writing, state the grounds for relief, and state the relief or order sought. Motions based on matters that do not appear of record may be supported by affidavit or other evidence. The filing of motions is governed by 199—Chapter 14. Any party may file a written response to a motion no later than 14 days from the date the motion is filed, unless the time period is extended or shortened by the commission or presiding officer. When a provision of law directs the commission to issue a decision in the case in six months or less, a party filing a written response is to do so within seven days from the date the motion is filed, unless otherwise ordered by the commission or presiding officer. Failure to file a timely response may be deemed a waiver of objection to the motion. Requirements regarding motions related to discovery are contained in rule 199—7.15(17A,476).

199—7.13(17A,476) Intervention.

7.13(1) Petition. Unless otherwise ordered by the commission or presiding officer, a request to intervene in a proceeding shall be by petition to intervene filed no later than 20 days following the order setting a procedural schedule. However, when a provision of law directs the commission to issue a decision in the case in six months or less, the petition to intervene is to be filed no later than ten days following the order setting a procedural schedule, unless otherwise ordered by the commission or presiding officer.

7.13(2) Response. Any party may file a response within seven days of service of the petition to intervene unless the time period is extended or shortened by the commission or presiding officer.

7.13(3) Grounds for intervention. Any person having an interest in the subject matter of a proceeding may be permitted to intervene at the discretion of the commission or presiding officer. In determining whether to grant intervention, the commission or presiding officer will consider:

- a. The prospective intervenor's interest in the subject matter of the proceeding;
- b. The effect of a decision that may be rendered upon the prospective intervenor's interest;
- c. The extent to which the prospective intervenor's interest will be represented by other parties;
- d. The availability of other means by which the prospective intervenor's interest may be protected;
- e. The extent to which the prospective intervenor's participation may reasonably be expected to assist in the development of a sound record through presentation of relevant evidence and argument; and

f. Any other relevant factors.

7.13(4) In determining the extent to which the prospective intervenor's interest will be represented by other parties, the consumer advocate's role of representing the public interest will not be interpreted as representing every potential interest in a proceeding.

7.13(5) The commission or presiding officer may limit a person's intervention to particular issues or to a particular stage of the proceeding, or may otherwise condition the intervenor's participation in the proceeding. Leave to intervene is generally granted by the commission or presiding officer to any person with a cognizable interest in the proceeding.

7.13(6) When two or more intervenors have substantially the same interest, the commission or presiding officer, in the commission's or presiding officer's discretion, may order consolidation of petitions and briefs and limit the number of attorneys allowed to participate actively in the proceedings to avoid a duplication of effort.

7.13(7) A person granted leave to intervene is a party to the proceeding. However, unless the commission or presiding officer rules otherwise for good cause shown, an intervenor is bound by any agreement, arrangement, or order previously made or issued in the case.

199—7.14(17A,476) Consolidation and severance.

7.14(1) *Consolidation.* The commission or presiding officer may consolidate in one docket any or all matters at issue in two or more dockets. When deciding whether to consolidate, the commission or presiding officer may consider:

- a.* Whether the matters at issue involve common parties or common questions of fact or law;
- b.* Whether consolidation is likely to expedite or simplify consideration of the issues involved;
- c.* Whether consolidation would adversely affect the substantial rights of any of the parties to the proceedings; and
- d.* Any other relevant factors.

7.14(2) *Severance.* The commission or presiding officer may order any contested case or portions thereof severed for good cause.

199—7.15(17A,476) Discovery.

7.15(1) Discovery procedures applicable in civil actions are available to parties in contested cases.

7.15(2) Unless otherwise ordered by the commission or presiding officer or agreed to by the parties, data requests or interrogatories served by any party shall either be responded to or objected to, with concisely stated grounds for relief, within seven business days of receipt. When a provision of law directs the commission to issue a decision in the case in six months or less, this time is reduced to five days. Data requests or interrogatories served on a day the commission is closed or after 4:30 p.m. central time on a day the commission is open are considered served on the next business day.

7.15(3) Unless otherwise ordered by the commission or presiding officer, time periods for compliance with all forms of discovery other than those stated in subrule 7.15(2) are the same as those provided in the Iowa Rules of Civil Procedure.

7.15(4) A party shall make a good faith effort to resolve a discovery dispute by personally speaking with or attempting to speak with the opposing party before filing a discovery motion with the commission. A motion relating to discovery must set forth the date and time the moving party spoke with or attempted to speak with the opposing party in a good faith attempt to resolve the dispute.

199—7.16(17A,476) Subpoenas.

7.16(1) *Issuance.*

a. An agency subpoena will be issued to a party on a written request that includes the name, address, and telephone number of the requesting party. In the absence of good cause for permitting later action, a request for a subpoena will be filed at least seven days before the scheduled hearing.

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses. Subpoenas cannot be served electronically through the electronic filing system.

7.16(2) *Motion to quash or modify.* Upon motion, the commission or presiding officer may quash or modify a subpoena for any lawful reason.

199—7.17(17A,476) Prehearing or scheduling conference. The commission or presiding officer may schedule a prehearing conference, scheduling conference, or other informal conference at the commission's or presiding officer's discretion or at the request of any party for any appropriate purpose. Any agreement reached at the conference will be made a part of the record in the manner directed by the commission or presiding officer.

199—7.18(17A,476) Settlements. Parties to a contested case may propose to settle all or some of the issues in the case. The commission or presiding officer will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Commission adoption of a settlement constitutes the final decision of the commission on issues addressed in the settlement.

7.18(1) *Proposal of settlements.* Two or more parties may by written motion propose settlements for adoption by the commission or presiding officer. The motion will contain sufficient information to advise the commission or presiding officer and parties not expressly joining the proposal of its scope and of the grounds on which adoption is urged. Parties may propose a settlement for adoption by the commission or presiding officer at any time.

7.18(2) *Conference.* After proposal of a settlement that is not supported by all parties, and prior to approval, the settling parties are to convene at least one conference with notice and opportunity to participate provided to all parties for the purpose of discussing the settlement proposal. Written notice of the date, time, and place is to be furnished at least seven days in advance to all parties to the proceeding. Only parties and their representatives are entitled to attend a settlement conference. A party that has been given notice and opportunity to participate in the conference and does not do so is deemed to have waived its right to contest a proposed settlement, unless good cause is shown for the failure to participate.

7.18(3) *Comment period.* When a party to a proceeding does not join in a settlement proposed for adoption by the commission or presiding officer, the party may file comments contesting all or part of the settlement with the commission within 14 days of the filing of the motion proposing settlement unless otherwise ordered by the commission or the presiding officer. Unless otherwise ordered by the commission or presiding officer, parties may file reply comments within seven days of filing of the comments.

7.18(4) *Contents of comments.* A party contesting a proposed settlement is to specify in its comments the portions of the settlement that it opposes, the legal basis of its opposition, and the factual issues that it contests. Any failure by a party to file comments may, at the commission's or presiding officer's discretion, constitute waiver by that party of all objections to the settlement.

7.18(5) *Contested settlements.* If the proposed settlement is contested, in whole or in part, on any material issue of fact by any party, the commission or presiding officer may schedule a hearing on the contested issue(s). The commission or presiding officer may decline to schedule a hearing where the contested issue of fact is not material or where the contested issue is one of law.

7.18(6) *Unanimous proposed settlement.* In proceedings where all parties join in the proposed settlement, parties may propose a settlement for adoption by the commission or presiding officer any time after docketing. Subrules 7.18(2) through 7.18(5) do not apply to a proposed settlement filed concurrently by all parties to the proceeding. 199—Chapter 26 applies to settlements in rate cases.

7.18(7) *Inadmissibility.* Any discussion, admission, concession, or offer to settle, whether oral or written, made during any negotiation on a settlement is privileged to the extent provided by law, including but not limited to Iowa Rule of Evidence 5.408.

199—7.19(17A,476) Stipulations. Parties to any proceeding or investigation may, by stipulation filed with the commission, agree upon the facts or law or any portion thereof involved in the controversy, subject to approval by the commission or presiding officer.

199—7.20(17A,476) Investigations. The availability of discovery pursuant to Iowa Code section 17A.13 or the Iowa Rules of Civil Procedure does not limit the investigatory powers of the commission, its representatives, or the consumer advocate.

199—7.21(17A,476) Withdrawals. A party requesting a contested case proceeding may, with the permission of the commission or presiding officer, withdraw that request at any time prior to the issuance of a proposed or final decision in the case.

199—7.22(17A,476) Ex parte communication. Ex parte communications are governed by Iowa Code section 17A.17.

199—7.23(17A,476) Hearings.

7.23(1) Commission or presiding officer. The commission or presiding officer presides at the hearing and may rule on motions and issue such orders and rulings as will ensure the orderly conduct of the proceedings. The commission or presiding officer will maintain the decorum of the hearing and may refuse to admit, may set limits on, or may expel from the hearing anyone whose conduct is disorderly.

7.23(2) Witnesses. Each witness will be sworn or affirmed by the commission, presiding officer, or the court reporter and be subject to examination and cross-examination. The commission or presiding officer may limit questioning in a manner consistent with law. In appropriate circumstances, the commission or presiding officer may order that witnesses testify as members of a witness panel.

7.23(3) Order of presenting evidence. The commission or presiding officer will determine the order of the presentation of evidence based on applicable law and the interests of efficiency and justice, considering the preferences of the parties. Normally, the petitioner opens the presentation of evidence. In cases where testimony has been prefiled and unless otherwise ordered by the commission or the presiding officer, each party will make its witnesses available for cross-examination on all testimony filed or on behalf of that witness.

7.23(4) Evidence.

a. Subject to terms and conditions prescribed by the commission or presiding officer, parties have the right to introduce evidence, cross-examine witnesses, and present evidence in rebuttal. Ordinarily, prefiled testimony is used in hearings pursuant to rule 199—7.10(17A,476). The sponsoring party is to provide one copy of prefiled testimony and included exhibits to the court reporter.

b. The commission or presiding officer will rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with law.

c. Stipulation of facts is encouraged. The commission or presiding officer may make a decision based on stipulated facts.

d. Unless the exhibit was previously included with prefiled testimony, the party seeking admission of an exhibit at a hearing is to provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence are to be marked in accordance with the commission's approved naming convention and made part of the evidentiary record. If an exhibit is admitted, unless it was previously included with prefiled testimony, the sponsoring party is to provide at least one copy of the exhibit to each opposing party, one copy to each commission member or presiding officer, one copy to the witness (if any), one copy to the court reporter, and two copies to commission staff, unless otherwise ordered. Parties are to file all their admitted hearing exhibits in the commission's electronic filing system within three days of the close of the hearing.

e. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony is expected to briefly summarize the testimony or, with the permission of the commission or presiding officer, present the testimony. The commission or presiding officer may direct the offering party to file a written statement of the excluded oral testimony. If the excluded evidence consists of a document or exhibit, it will be marked as part of an offer of proof and inserted in the record. Unless previously included with prefiled testimony, the sponsoring party is to provide at least one copy of the document or exhibit to each opposing party, one copy to each commission member or presiding officer, one copy to the witness (if any), one copy to the court reporter, and two copies to commission staff, unless otherwise ordered.

7.23(5) *Objections.* Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. All objections will be timely made on the record and state the grounds relied on. The commission or presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

7.23(6) *Further evidence.* At any stage during or after the hearing, the commission or presiding officer may order a party to present additional evidence and may conduct additional proceedings as appropriate.

7.23(7) *Participation at hearings by nonparties.* The commission or presiding officer may permit any person to be heard at any hearing, but such person is not a party to the proceedings unless so designated. The testimony or statement of any person so appearing is given under oath and such person is subject to cross-examination by parties to the proceeding, unless the commission or presiding officer orders otherwise. If a person who is not a party to a proceeding appears at a hearing and requests to examine or cross-examine witnesses, the commission or presiding officer may grant the person intervention in the proceeding as a party for the limited purpose requested by the person and in compliance with subrule 7.4(7).

7.23(8) *Briefs.*

a. Unless waived by the parties with the consent of the commission or presiding officer, times for the filing and service of briefs will be set by the commission or presiding officer. Unless otherwise ordered by the commission or presiding officer, initial briefs will be filed simultaneously by all parties and reply briefs will be filed simultaneously.

b. Initial briefs should contain a concise statement of the case and all arguments, with citations to the evidence, that the party intends to offer in support of its case. Unless otherwise ordered, a reply brief should be confined to refuting arguments made in the brief of an adverse party. Unless specifically ordered to brief an issue, a party's failure to address an issue by brief will not be deemed a waiver of that issue and does not preclude the commission or presiding officer from deciding the issue on the basis of evidence appearing in the record.

c. Every brief of more than 20 pages should contain at its beginning a table of contents with page references.

d. Briefs should comply with the following requirements:

- (1) The size of pages should be 8½ by 11 inches.
- (2) All printed matter should appear in at least 11-point type.
- (3) There should be margins of at least one inch on the top, bottom, right, and left sides of the sheet.
- (4) The body of the brief should be double spaced.
- (5) Footnotes may be single spaced.
- (6) The printed matter may appear in any pitch, as long as the characters are spaced in a readable manner. Any readable font is acceptable.

7.23(9) *Oral arguments.* The commission or presiding officer may set a time for oral argument to address issues raised by the parties during the proceeding or at the conclusion of the hearing or may set a separate date and time for oral argument. The commission or presiding officer may set a time limit for argument. Oral argument may be either in addition to or in lieu of briefs. Unless specifically ordered to argue an issue, a party's failure to address an issue in oral argument will not be deemed a waiver of the issue.

7.23(10) *Record.* The record of the case is maintained in the commission's electronic filing system. Unless the record is held confidential pursuant to the "public information and inspection of records" rule in 199—Chapter 1, parties and members of the public may examine the record and obtain copies of documents, including the transcript, when available.

7.23(11) *Default.*

a. If a party fails to appear at a hearing after proper service of notice, or fails to answer or otherwise respond to an appropriate pleading directed to and properly served upon that party, the commission or presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

b. Default decisions or decisions rendered on the merits after a party has failed to appear at a hearing constitute final agency action unless otherwise ordered by the commission or presiding officer. However, within 15 days after the date of electronic notification or mailing of the decision, a motion to vacate may be filed with the commission. The motion to vacate should state all facts relied on by the moving party that show good cause existed for that party's failure to appear at the hearing or answer or otherwise respond to an appropriate pleading directed to and properly served upon that party. The stated facts should be substantiated by citation to evidence in the record or by affidavit attached to the motion. Unless otherwise ordered, adverse parties have ten days to respond to a motion to vacate. If the decision is rendered by a presiding officer, the commission may review it on the commission's own motion within 15 days after the date of notification or mailing of the decision.

c. The time for appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

d. A motion to vacate will not be granted except upon a finding of good cause. The burden of proof as to good cause is on the moving party. "Good cause" for purposes of this rule has the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

e. A presiding officer's decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case. A presiding officer's decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to the "interlocutory appeals" rule of 199—Chapter 7.

f. If a motion to vacate is granted and no timely interlocutory appeal has been taken, the commission or presiding officer may schedule another contested case hearing.

g. A default decision may award any relief consistent with the record in the case. The default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a timely motion to vacate, an appeal pursuant to the "appeals to commission from a proposed decision of a presiding officer" rule of 199—Chapter 7, or a request for stay pursuant to the "rehearing and reconsideration" rule of 199—Chapter 7.

199—7.24(17A,476) Reopening record. The commission or presiding officer, on the commission's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. When the record was made before the commission, a motion to reopen the record may be made any time prior to the issuance of a final decision. When the record was made before a presiding officer, a motion to reopen the record may be made any time prior to issuance of the proposed decision. If the moving party requests the opportunity to present new evidence, the moving party will attach an affidavit from each witness who will present the new evidence with an explanation of the competence of the witness and a description of the evidence to be included in the record.

199—7.25(17A,476) Interlocutory appeals. Upon written request of a party or on its own motion, the commission may review an interlocutory order of the presiding officer. In determining whether to do so, the commission may consider the extent to which granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the commission at the time it reviews the proposed decision would provide an adequate remedy. Any request for interlocutory review shall be filed within ten days of issuance of the challenged order, but no later than the time for compliance with the order or ten days prior to the date of hearing, whichever is first.

199—7.26(17A,476) Appeals to commission from a proposed decision of a presiding officer.

7.26(1) Notification of proposed decision. Notice of the presiding officer's proposed decision and order in a contested case will be sent through the electronic filing system, or by first-class mail if the commission has granted a party approval to receive service in paper, on the date the order is issued. The decision will normally include "Proposed Decision and Order" in the title and will normally inform the parties of their right to appeal an adverse decision and the time in which an appeal may be taken.

7.26(2) Appeal from proposed decision. A proposed decision and order of the presiding officer in a contested case becomes the final decision of the commission unless, within 15 days after the decision is

issued, the commission moves to review the decision or a party files an appeal of the decision with the commission. The presiding officer may shorten the time for appeal. In determining whether a request for a shortened appeal period should be granted, the presiding officer may consider the needs of the parties for a shortened appeal period, relevant objections of the parties, the relevance of any written objections filed in the case, and whether there are any issues that indicate a need for the 15-day appeal period.

7.26(3) Any adversely affected party may appeal a proposed decision by timely filing a notice of appeal.

7.26(4) On appeal of a proposed decision of a presiding officer that is based upon new evidence not introduced in the record before the presiding officer, the commission will determine whether the new evidence warrants a new hearing. If the commission determines that the new evidence is material to the proposed decision and a new hearing should be held, the commission may remand the proposed decision to the presiding officer for the taking of the new evidence or may conduct a hearing and issue an order based upon the record before the presiding officer and the new evidence.

7.26(5) Contents of notice of appeal. The notice of appeal shall include the following in separately numbered paragraphs supported, where applicable, by controlling statutes and rules:

- a.* A brief statement of the facts.
- b.* A brief statement of the history of the proceeding, including the date and a description of any ruling claimed to be erroneous.
- c.* A statement of each of the issues to be presented for review.
- d.* A precise description of the error(s) upon which the appeal is based. If a claim of error is based on allegations that the presiding officer failed to correctly interpret the law governing the proceeding, exceeded the authority of a presiding officer, or otherwise failed to act in accordance with law, the appellant will include a citation to briefs or other documents filed in the proceeding before the presiding officer where the legal points raised in the appeal were discussed. If a claim of error is based on allegations that the presiding officer failed to adequately consider evidence introduced at hearing, the appellant will include a citation to pages of the transcript or other documents where the evidence appears.
- e.* A precise statement of the relief requested.
- f.* A statement as to whether an opportunity to file a brief or make oral argument in support of the appeal is requested and, if an opportunity is sought, a statement explaining the manner in which briefs and arguments presented to the presiding officer are inadequate for purposes of appeal.
- g.* A request, if a party seeks a stay or other temporary remedy pending review of the proposed decision by the commission, with the reasons justifying such a stay or other temporary remedy that includes a discussion of the factors listed in Iowa Code section 17A.19(5) "c."
- h.* Certification of service showing the names and addresses of all parties upon whom a copy of the notice of appeal was served.

7.26(6) Responsive filings and cross-appeals. Parties may file a response to the notice of appeal or may file a cross-appeal within 14 days after the filing of the notice of appeal unless otherwise ordered by the commission. If a request for a stay or other temporary remedy was included in the notice of appeal, any party wishing to respond to the request will include the response to the request in the party's response to the notice of appeal or notice of cross-appeal. When a provision of law directs the commission to issue a decision in the case in less than six months, the period for filing a response or cross-appeal is reduced to seven days from the filing of the notice of appeal.

a. Responses should specifically respond to each of the substantive paragraphs of the notice of appeal and state whether an opportunity to file responsive briefs or to participate in oral argument is requested.

b. The requirements contained in this rule pertaining to a notice of appeal also apply to a notice of cross-appeal, other than the time for filing.

7.26(7) Ruling on appeal. After the filing of the last appeal, response, or cross-appeal, the commission will issue an order that may establish a procedural schedule for the appeal or may be the commission's final decision on the merits of the appeal. If a request for a stay or other temporary remedy was included in the notice of appeal, the request will be evaluated by the commission using the factors

stated in rule 199—7.28(17A,476). A stay or other temporary remedy may be vacated by the commission upon application of any party or upon the commission's own motion.

199—7.27(17A,476) Rehearing and reconsideration.

7.27(1) *Application for rehearing or reconsideration.* Any party to a contested case may file an application for rehearing or reconsideration of the final decision within 20 days after the issuance of a final decision in a contested case. The commission will either grant or refuse an application for rehearing within 30 days after the filing of the application or may, after giving the interested parties notice and opportunity to be heard and after consideration of all the facts, including those arising since the making of the order, abrogate or modify its order. A failure by the commission to act upon the application for rehearing within the above period is deemed a refusal of the application.

7.27(2) *Contents of application.* Applications for rehearing or reconsideration will specify the findings of fact and conclusions of law claimed to be erroneous, with a brief statement of the alleged grounds of error. Any application for rehearing or reconsideration asserting that evidence has arisen since the final order was issued as a ground for rehearing or reconsideration will present the evidence by affidavit that includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included.

7.27(3) *Requirements for objections to applications for rehearing or reconsideration.* Notwithstanding the provisions of subrule 7.9(2) and unless otherwise ordered by the commission, within 14 days of the date the application was filed, an answer or objection to the application may be filed.

199—7.28(17A,476) Stay of agency decision.

7.28(1) Any party to a contested case proceeding may petition the commission for a stay or other temporary remedy pending judicial review of the proceeding. The petition will state the reasons justifying a stay or other temporary remedy and be served on all other parties pursuant to subrule 7.4(5).

7.28(2) In determining whether to grant a stay, the commission will consider the factors listed in Iowa Code section 17A.19(5) "c."

7.28(3) A stay or other temporary remedy may be vacated by the commission upon application of any party or upon the commission's own motion.

199—7.29(17A,476) Emergency adjudicative proceedings.

7.29(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the commission may issue an emergency adjudicative order in compliance with Iowa Code section 17A.18A to order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the agency. Before issuing an emergency adjudicative order, the commission may consider factors including but not limited to the following:

- a.* Whether there has been a sufficient factual investigation to provide reasonably reliable information under the circumstances;
- b.* Whether the specific circumstances that pose immediate danger to the public health, safety, or welfare are likely to be continuing;
- c.* Whether the person obligated to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety, or welfare;
- d.* Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and
- e.* Whether the specific action contemplated by the commission is necessary to avoid the immediate danger.

7.29(2) *Issuance of order.*

a. An emergency adjudicative order will contain findings of fact, conclusions of law, and policy reasons for the decision, if it is an exercise of the commission's discretion, to justify the determination of an immediate danger and the commission's decision to take immediate action.

b. The written emergency adjudicative order will be immediately delivered to persons who are to comply with the order by the most reasonably available method, which may include one or more of the following methods: notice through the electronic filing system, personal delivery, certified mail, first-class mail, fax, or email. To the degree practical, the commission will select the method or methods most likely to result in prompt, reliable delivery.

c. Unless the written emergency adjudicative order is delivered by personal service on the day issued, the commission will make reasonable efforts to contact the persons who are to comply with the order by telephone, in person, or otherwise.

7.29(3) *Completion of proceedings.* Issuance and delivery of a written emergency adjudicative order will normally include notification of a procedural schedule for completion of the proceedings.

These rules are intended to implement Iowa Code chapter 17A and sections 474.5 and 476.2.

[Filed 11/12/24, effective 1/15/25]

[Published 12/11/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/24.