



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2017

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
16	Friday, January 13, 2017	February 1, 2017
17	Friday, January 27, 2017	February 15, 2017
18	Friday, February 10, 2017	March 1, 2017

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, January 6, 2017, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the December 21, 2016, Iowa Administrative Bulletin.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

- Sensitive crop registry, 45.1 Filed **ARC 2881C** 1/4/17
- Pesticide applicator continuing instruction course—certificate of completion, 45.52(4)
Filed **ARC 2882C** 1/4/17
- Iowa-foaled horse status—standardbred registration, 62.26(4) Filed **ARC 2883C** 1/4/17
- Elimination of residency requirement for owners of Iowa-registered quarter horse stallions,
 62.32(3) Filed **ARC 2879C** 1/4/17
- Federal Wholesome Meat Act regulations—adoption by reference, 76.2 Filed **ARC 2880C** 1/4/17

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

- Reinstatement to active status—reporting of continuing education hours, 3.3(4) Notice **ARC 2876C** 1/4/17

ATTORNEY GENERAL[61]

- Statement of property owner’s rights, 34.1 Notice **ARC 2877C** 1/4/17

HUMAN SERVICES DEPARTMENT[441]

- Supplemental nutrition assistance program (SNAP)—time frame for referral of delinquent
 claims, 11.5(1)“a”(3) Filed Emergency After Notice **ARC 2884C** 1/4/17
- Intermediate care facilities for persons with an intellectual disability—fee assessments, 36.1
 to 36.3, 82.5(13) Filed **ARC 2886C** 1/4/17
- State supplementary assistance—cost-of-living increases, 51.4(1), 51.7, 52.1
Notice **ARC 2890C**, also Filed Emergency **ARC 2891C** 1/4/17
- Purchase of service; foster care contracting; foster care rates and payments, rescind chs 150,
 152; adopt ch 152, amend chs 156, 172, 202 Filed **ARC 2885C** 1/4/17

TRANSPORTATION DEPARTMENT[761]

- Department organization; update of division name, amendments to chs 1, 10 to 12, 112, 115
Filed **ARC 2889C** 1/4/17
- Motorized bicycle maximum speed; update of cross references and office name, 400.58(1),
 410.1(3), 410.2 Filed **ARC 2887C** 1/4/17
- Federal motor carrier safety and hazardous materials regulations—adoption by reference,
 520.1(1), 529.1, 607.10(1)“c” Notice **ARC 2878C** 1/4/17
- Driver’s license, nonoperator identification card—veteran designation, amendments to chs
 605, 630 Filed **ARC 2888C** 1/4/17

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Jack Ewing
Legal Counsel
Capitol
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Telephone (515)281-6048
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Representative Lisa Heddens
2401 Westwind Drive
Ames, Iowa 50010

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

Colin Smith
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

ARCHITECTURAL EXAMINING BOARD[193B]

Reinstatement to active status—reporting of continuing education hours, 3.3(4) IAB 1/4/17 ARC 2876C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	January 24, 2017 9 a.m.
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EDUCATION DEPARTMENT[281]

Statewide science assessment, 12.8(1)“h” IAB 12/7/16 ARC 2854C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 6, 2017 9 to 10 a.m.
Community college accreditation, 24.3, 24.5 IAB 12/7/16 ARC 2853C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 6, 2017 11 a.m. to 12 noon
Career and technical education; career academies, rescind chs 46, 47; adopt ch 46 IAB 12/7/16 ARC 2855C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 6, 2017 1 to 2 p.m.

LABOR SERVICES DIVISION[875]

Federal occupational safety and health standards related to walking and working surfaces—adoption by reference, 10.20 IAB 12/21/16 ARC 2866C	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	January 11, 2017 1:30 p.m. (If requested)
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NATURAL RESOURCE COMMISSION[571]

Lease to beginning farmers program, 21.2, 21.4 to 21.6 IAB 12/7/16 ARC 2831C	Conference Room 5W Wallace State Office Bldg. Des Moines, Iowa	January 11, 2017 2 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Licensure of chiropractic physicians, amendments to ch 41 IAB 12/7/16 ARC 2857C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	January 6, 2017 9 to 9:30 a.m.
Definition of physician supervision of a physician assistant, 327.8 IAB 12/7/16 ARC 2832C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	January 6, 2017 8 to 9 a.m.

TRANSPORTATION DEPARTMENT[761]

Traffic signal system—adaptive signal control system, 143.1, 143.4(1) IAB 12/21/16 ARC 2863C	South Conference Room, First Floor Administration Bldg. 800 Lincoln Way Ames, Iowa	January 12, 2017 9 a.m. (If requested)
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TRANSPORTATION DEPARTMENT[761](cont'd)

Federal motor carrier safety
and hazardous materials
regulations—adoption by
reference, 520.1(1), 529.1,
607.10(1)“c”
IAB 1/4/17 **ARC 2878C**

Motor Vehicle Division Offices
6310 SE Convenience Blvd.
Ankeny, Iowa

January 26, 2017
10 a.m.
(If requested)

UTILITIES DIVISION[199]

Iowa electrical safety code, 25.2,
25.3, 25.5
IAB 11/23/16 **ARC 2815C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

January 24, 2017
1 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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ARC 2876C

ARCHITECTURAL EXAMINING BOARD[193B]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 3, “Continuing Education,” Iowa Administrative Code.

The proposed amendment is a result of the five-year rolling review of rules outlined in Iowa Code section 17A.7(2). The rules in Chapter 3 describe professional licensees’ continuing education requirement as a condition of registration renewal. The proposed amendment clarifies that an architect who is reinstating to active status will be able to report a reduced number of continuing education hours, which is the current practice of the Board.

Consideration will be given to all written suggestions or comments received on or before January 24, 2017. Comments should be directed to Lori SchraderBachar, Iowa Architectural Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to lori.schraderbachar@iowa.gov.

A public hearing will be held on January 24, 2017, at 9 a.m. in the Board Office, 200 E. Grand, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person’s name and address for the record and to confine remarks to the subject of the proposed amendment.

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

This proposed amendment is subject to waiver or variance pursuant to 193—Chapter 5.

This proposed amendment was approved by the Board on November 15, 2016.

After analysis and review of this rule making, the Board determined that there will be no impact on jobs and no fiscal impact to the state.

This amendment is intended to implement Iowa Code section 544A.10.

The following amendment is proposed.

Amend subrule 3.3(4) as follows:

3.3(4) An architect who holds registration in Iowa for less than 12 months from the date of initial registration or who is reinstating to active status shall not be required to report CEHs at the first registration renewal. An architect who holds registration in Iowa for more than 12 months, but less than 23 months from the date of initial registration or who is reinstating to active status, shall be required to report 12 CEHs earned in the preceding 12 months at the first registration renewal.

ARC 2877C

ATTORNEY GENERAL[61]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 6B.2A(1)“f,” the Attorney General hereby gives Notice of Intended Action to amend Chapter 34, “Acquisition Negotiation Statement of Rights,” Iowa Administrative Code.

The limited purposes of the amendments to Chapter 34 are to remove outdated references to a 1999 session law, to remove a provision that implemented a statutory provision that has now been repealed, and to make a clarification and editorial enhancement to one provision.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 24, 2017. Such written materials should be directed to David L. Dorff, Assistant Attorney General, Environmental Division, Iowa Attorney General’s Office, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319; fax (515)281-4209; or via e-mail to David.Dorff@iowa.gov. Persons who wish to convey their views orally should contact Mr. Dorff at (515)281-6710 or at the office of the Environmental Division on the second floor of the Hoover State Office Building.

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

These amendments are intended to implement Iowa Code section 6B.2A(1)“f.”

The following amendments are proposed.

ITEM 1. Amend rule 61—34.1(78GA,HF476) as follows:

61—34.1(78GA,HF476 6B) Statement of property owner’s rights. ~~1999 Iowa Acts, House File 476, section 3, Iowa Code section 6B.2A(1) mandates that an acquiring agency provide a statement of rights to owners of record who may have all or a part of their property acquired by condemnation. It also directs the attorney general to adopt rules prescribing a statement of rights which an acquiring agency may use to meet its obligation. Pursuant to that directive, the following statement of property owner’s rights is adopted:~~

STATEMENT OF PROPERTY OWNER’S RIGHTS

Just as the law grants certain entities the right to acquire private property, you as the owner of the property have certain rights. You have the right to:

1. Receive just compensation for the taking of property. (Iowa Constitution, Article I, section 18)
2. An offer to purchase which may not be less than the lowest appraisal of the fair market value of the property. (Iowa Code section ~~6B.45 as amended by 1999 Iowa Acts, House File 476, section 18; Iowa Code section 6B.54 as amended by 1999 Iowa Acts, House File 476, section 20~~ 6B.54(3))
3. Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency’s determination of just compensation is based not less than ten days before being contacted by the acquiring agency’s acquisition agent. (Iowa Code section ~~6B.45 as amended by 1999 Iowa Acts, House File 476, section 18~~)
4. An opportunity to accompany at least one appraiser of the acquiring agency who appraises your property when an appraisal is required. (Iowa Code section ~~6B.54~~ 6B.54(2))
5. Participate in good-faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (~~1999 Iowa Acts, House File 476, section 3~~ Iowa Code section 6B.2B)
6. A determination of just compensation by an impartial compensation commission and the right to appeal its award to the district court if you cannot agree on a purchase price with the acquiring agency.

ATTORNEY GENERAL[61](cont'd)

(Iowa Code section 6B.4; Iowa Code section 6B.7 as amended by 1999 Iowa Acts, House File 476, section 8; Iowa Code section 6B.18)

~~7. A review by the compensation commission of the necessity for the condemnation if your property is agricultural land being condemned for industry. (1999 Iowa Acts, House File 476, section 7)~~

~~8. 7. Payment of the agreed upon purchase price or, if condemned, a deposit of the compensation commission award before you are required to surrender possession of the property. (Iowa Code section 6B.25; Iowa Code section 6B.26; Iowa Code section 6B.54(11))~~

~~9. 8. Reimbursement for expenses incidental to transferring title to the acquiring agency. (Iowa Code section 6B.33 as amended by 1999 Iowa Acts, House File 476, section 15; Iowa Code section 6B.54(10))~~

~~10. 9. Reimbursement of certain litigation expenses: (a) if the award of the compensation commissioners exceeds 110 percent of the acquiring agency's final offer before condemnation; and (b) if the award on appeal in court is more than the compensation commissioners' award. (Iowa Code section 6B.33)~~

~~11. 10. At To the greatest extent practicable, be provided at least 90 days' written notice to vacate occupied property prior to construction or development of a public improvement. (Iowa Code section 6B.54(4))~~

~~12. 11. Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of the payments. (Iowa Code section 316.9; Iowa Code section 6B.42 as amended by 1999 Iowa Acts, House File 476, section 17)~~

The rights set out in this statement are not claimed to be a full and complete list or explanation of an owner's rights under the law. They are derived from Iowa Code chapters 6A, 6B and 316. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

ITEM 2. Amend rule 61—34.2(78GA,HF476) as follows:

61—34.2(78GA,HF476 6B) Alternate statement of rights. Rule 61—34.1(78GA,HF476 6B) is not intended to prohibit acquiring agencies from providing a statement of rights in a different form, a more detailed statement of rights, or supplementary material expanding upon an owner's rights.

ITEM 3. Amend **61—Chapter 34**, implementation sentence, as follows:

These rules are intended to implement 1999 Iowa Acts, House File 476, section 3 Iowa Code section 6B.2A(1).

ARC 2890C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 217.3(6) and 2016 Iowa Acts, House File 2460, section 12, the Department of Human Services proposes to amend Chapter 51, “Eligibility,” and Chapter 52, “Payment,” Iowa Administrative Code.

These amendments implement the January 1, 2017, cost-of-living adjustment (COLA) increases to the income limits and benefit amounts for several State Supplementary Assistance (SSA) categories. These amendments also implement the changed personal needs allowance for residential care facility assistance and family life home assistance. The net change to the personal needs allowance is a decrease

HUMAN SERVICES DEPARTMENT[441](cont'd)

due to a small COLA percentage increase that is offset by a decrease in the average monthly Medicaid copays used to calculate the amount of this deduction.

Any interested person may make written comments on the proposed amendments on or before January 24, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may also be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations since the increases are required by federal and state law.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 2891C**. The purpose of this Notice is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

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

These amendments are intended to implement Iowa Code section 217.3(6) and 2016 Iowa Acts, House File 2460, section 12.

ARC 2878C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321.188, 321.449 and 321.450, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 520, "Regulations Applicable to Carriers," Chapter 529, "For-Hire Interstate Motor Carrier Authority," and Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

Iowa Code section 321.188 requires the Department to adopt rules to administer commercial driver's licenses in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

The proposed amendments to Chapter 520 adopt the current CFR dated October 1, 2016, for 49 CFR Parts 107, 171, 172, 173, 177, 178, 180, 385 and 390 to 399.

The proposed amendment to Chapter 529 adopts the current CFR dated October 1, 2016, for 49 CFR Parts 365 to 368 and 370 to 379.

The proposed amendment to Chapter 607 adopts the current CFR dated October 1, 2016, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR.

To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

TRANSPORTATION DEPARTMENT[761](cont'd)

No changes within 761—Chapter 607 to 49 CFR Section 383.51 and 49 CFR Subparts E, G and H of Part 383 have occurred since the adoption of the October 1, 2015, CFR.

The amendments to the FMCSR and the HMR that have become final and effective since the 2015 edition of the CFR are listed below and affect 761—Chapters 520 and 529. The parts affected are followed by FR citations.

Amendments to the FMCSR and Federal HMR

Parts 365-366, 368, 385, 390 and 392 (FR Vol. 80, No. 203, Pages 63695-63714, 10-21-15)

This final rule delays the effective and compliance dates for Federal Motor Carrier Safety Administration's (FMCSA) August 23, 2013, Unified Registration System (URS) final rule. Because FMCSA changes the effective date (the actual date when the regulatory text that appears in the CFR will be changed) and makes technical corrections and conforming amendments to the 2013 regulatory text, FMCSA determined that it is in the best interest of the regulated entities, state partners and the general public to present the full text of the sections affected. The 2013 URS final rule was issued to improve the registration process for motor carriers, property brokers, freight forwarders, intermodal equipment providers, hazardous materials safety permit applicants and cargo tank facilities required to register with FMCSA, and streamline the existing federal registration processes to ensure FMCSA can more efficiently track these entities. This final rule delays the implementation of the 2013 final rule in order to allow FMCSA additional time to complete the information technology systems work required to fully implement that rule. Effective date: September 30, 2016, except for sections 365.T106, 368.T3 and 390.T200, which are effective from December 12, 2015, through September 29, 2016. Compliance date: September 30, 2016, except that new applicants must comply with sections 365.T106, 368.T3 or 390.T200 (as applicable) from December 12, 2015, through September 29, 2016.

Parts 171-173, 177-178 and 180 (FR Vol. 80, No. 225, Pages 72914-72929, 11-23-15)

This final rule amends the Pipeline and Hazardous Materials Safety Administration (PHMSA) HMRs to correct editorial errors, make minor regulatory changes and, in response to requests for clarification, improve the clarity of certain provisions. The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are nonsubstantive changes and do not impose new requirements. Effective date: December 23, 2015.

Part 390 (FR Vol. 80, No. 229, Pages 74695-74710, 11-30-15)

This final rule adopts FMCSA regulations that prohibit motor carriers, shippers, receivers, or transportation intermediaries from coercing drivers to operate commercial motor vehicles (CMVs) in violation of certain provisions of the FMCSRs. These provisions include drivers' hours-of-service limits, the commercial driver's license (CDL) regulations, drug and alcohol testing rules, and the HMRs. In addition, the rule prohibits anyone who operates a CMV in interstate commerce from coercing a driver to violate the commercial regulations. This rule includes procedures for drivers to report incidents of coercion to FMCSA, establishes rules of practice that FMCSA will follow in response to reports of coercion, and describes penalties that may be imposed on entities found to have coerced drivers. This rule making is authorized by Section 32911 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the Motor Carrier Safety Act of 1984, as amended. Effective date: January 29, 2016.

Parts 385, 390 and 395 (FR Vol. 80, No. 241, Pages 78291-78416, 12-16-15)

This final rule amends the FMCSA's regulations to establish minimum performance and design standards for hours-of-service (HOS) electronic logging devices (ELDs), requirements for the mandatory use of these devices by drivers currently required to prepare HOS records of duty status, requirements concerning HOS supporting documents, and measures to address concerns about harassment resulting from the mandatory use of ELDs. The requirements for ELDs will improve compliance with the HOS rules. Effective date: February 16, 2016. Compliance date: December 18, 2017.

Parts 171-173 and 177 (FR Vol. 80, No. 244, Pages 79423-79453, 12-21-15)

TRANSPORTATION DEPARTMENT[761](cont'd)

This final rule amends PHMSA's HMRs by establishing standards for the safe transportation of explosives on cargo tank motor vehicles and multipurpose bulk trucks transporting materials for blasting operations. This rule making is responsive to two petitions for rule making submitted by industry representatives: P-1557, concerning the continued use of renewal applications, and P-1583, concerning the incorporation of an industry standard publication. Further, developing these requirements provides wider access to the regulatory flexibility currently only offered by special permits and competent authorities. The requirements of this final rule mirror the majority of provisions contained in nine widely used, longstanding special permits that have established safety records. These requirements eliminate the need for future renewal requests, thus reducing paperwork burdens and facilitating commerce while maintaining a commensurate level of safety. This final rule authorizes the transportation of certain explosives, ammonium nitrates, ammonium nitrate emulsions, and other specific hazardous materials in both nonbulk and bulk packaging, which are not otherwise authorized under current regulations. These hazardous materials are used in blasting operations on cargo tank motor vehicles and specialized vehicles, known as multipurpose bulk trucks, which are used as mobile work platforms to create blends of explosives that are unique to each blast site. Finally, this rule making addresses the construction of new multipurpose bulk trucks. Effective date: January 20, 2016.

Parts 107, 171-173, 177, 178 and 180 (FR Vol. 81, No. 13, Pages 3635-3686, 1-21-16)

This final rule amends PHMSA HMRs required by MAP-21 to adopt provisions contained in certain widely used or longstanding special permits that have an established safety record. The adopted amendments are intended to provide wider access to the regulatory flexibility offered in special permits and eliminate the need for numerous renewal requests. The adopted amendments will also reduce paperwork burdens and facilitate commerce while maintaining an appropriate level of safety. PHMSA conducted an extensive analysis of all active special permits and codified, as appropriate, those special permits deemed suitable in this rule making. Effective date: February 22, 2016. Voluntary compliance date: beginning February 22, 2016. Delayed compliance date: January 23, 2017.

Part 390 (FR Vol. 81, No. 51, Pages 13998-14000, 3-16-16)

This final rule extends the compliance date by which motor carriers of passengers operating CMVs under a lease or interchange agreement are subject to the FMCSA final rule published May 27, 2015, for one year, to January 1, 2018. FMCSA received numerous petitions for reconsideration of the final rule and, based upon a review of the petitions, determined that the compliance date should be extended to provide sufficient time to address the issues raised by the petitioners. FMCSA is adding a temporary section to its regulations to inform the public of this extension. There will no longer be a need for the section on the compliance date after January 1, 2018; thus, the temporary section will be in effect only from March 16, 2016, through January 1, 2018. Effective date: March 16, 2016, until January 1, 2018. Compliance date: January 1, 2018.

Parts 171 and 173 (FR Vol. 81, No. 62, Pages 18527-18541, 3-31-16)

This final rule adopts PHMSA regulatory amendments applicable to the reverse logistics shipments of certain hazardous materials by highway transportation. This final rule revises the HMRs to include a definition of "reverse logistics" and provides appropriate provisions for hazardous materials within the scope of this definition. This final rule also expands a previously existing exception for return shipments of used automobile batteries transported between a retail facility and a recycling center. PHMSA incorporated recommendations from petitions for rule making and public comment into this rule making. Effective date: March 31, 2016.

Parts 171, 173 and 178 (FR Vol. 81, No. 83, Pages 25613-25618, 4-29-16)

This PHMSA direct final rule incorporates by reference the most recent editions of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. The purpose of this update is to enable nonspecification (nurse tank) manufacturers and other DOT and United Nations specification packaging manufacturers to utilize current technology, materials, and practices to help maintain a high level of safety. PHMSA is replacing the ASME referenced standard (1998 Edition) with the new, current

TRANSPORTATION DEPARTMENT[761](cont'd)

ASME standard (2015 Edition) for boiler and pressure vessels. PHMSA is also replacing the ASME 1998 Edition referenced standard of ASME's Transportation Systems for Liquids and Slurries: Pressure Piping to the current 2012 Edition. Effective date: June 28, 2016.

Parts 107, 171-173, 177-178 and 180 (FR Vol. 81, No. 106, Pages 35483-35546, 6-02-16)

This final rule amends PHMSA's HMRs to make miscellaneous amendments in order to update and clarify certain regulatory requirements. These amendments are designed to promote safer transportation practices, address petitions for rule making, respond to National Transportation Safety Board (NTSB) safety recommendations, facilitate international commerce, make editorial corrections, and simplify the regulations. The amendments in this rule making include, but are not limited to, removing the packing group II designation for certain organic peroxides, self-reactive substances, and explosives; incorporating requirements for trailers of manifolded acetylene cylinders; providing requirements to allow for shipments of damaged wet electric batteries; and revising the requirements for the packaging of nitric acid, testing of pressure relief devices on cargo tanks, and shipments of black or smokeless powder for small arms. Effective date: July 5, 2016.

Part 392 (FR Vol. 81, No. 109, Pages 36474-36479, 6-07-16)

This final rule revises FMCSA's regulations by requiring passengers in property-carrying CMVs to use the seat belt assembly whenever the vehicles are operated on public roads in interstate commerce. This rule holds motor carriers and drivers responsible for ensuring that passengers riding in the property-carrying CMV are using the seat belts required by the Federal Motor Carrier Safety Standards. Effective date: August 8, 2016.

Part 385 (FR Vol. 81, No. 117, Pages 39587-39590, 6-17-16)

This final rule amends FMCSA's hazardous materials safety permit rules to update the current incorporation by reference of the Commercial Vehicle Safety Alliance's "North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR part 173.403." Currently, the rules reference the April 1, 2015, edition of the out-of-service criteria, and through this final rule, FMCSA incorporates the April 1, 2016, edition. Effective date: June 17, 2016.

Part 392 (FR Vol. 81, No. 129, Page 43957, 7-06-16)

This final rule corrects an error in FMCSA's June 7, 2016, final rule "Driving of Commercial Motor Vehicles: Use of Seat Belts." The amendatory language in the final rule inadvertently limited the applicability of the requirement for drivers to use their seat belts to operators of property-carrying vehicles. This correction fixes the error such that drivers of passenger-carrying vehicles will continue to be required to wear their seat belts. Effective date: August 8, 2016.

Parts 365, 390-393 and 395-396 (FR Vol. 81, No. 141, Pages 47714-47722, 7-22-16)

This final rule adopts, as final, certain FMCSA regulations required by the Fixing America's Surface Transportation Act (FAST Act) enacted on December 4, 2015. The statutory changes went into effect on October 1, 2015, retroactively, and require that FMCSA make conforming changes to its regulations to ensure they are current and consistent with the statutory requirements. Adoption of these rules is a nondiscretionary, ministerial action that FMCSA may take without issuing a notice of proposed rule making and receiving public comment, in accordance with the good cause exception available to federal agencies under the Administrative Procedure Act. Effective date: July 22, 2016.

Parts 393 and 396 and Appendix G (FR Vol. 81, No. 141, Pages 47722-47732, 7-22-16)

This final rule amends FMCSA's regulations in response to several petitions for rule making from Commercial Vehicle Safety Alliance and the American Trucking Associations and two safety recommendations from NTSB. Specifically, FMCSA adds a definition of "major tread groove" and an illustration to indicate the location of tread wear indicators or wear bars on a tire signifying a major tread

TRANSPORTATION DEPARTMENT[761](cont'd)

groove; revises the rear license plate lamp requirement to eliminate the requirement for an operable rear license plate lamp on vehicles when there is no rear license plate present; amends the regulations regarding tires to prohibit the operation of a vehicle with speed-restricted tires at speeds that exceed the rated limit of the tire; provides specific requirements regarding when violations or defects noted on an inspection report must be corrected; amends two appendices to the FMCSRs to include provisions for the inspection of antilock braking systems and automatic brake adjusters, speed-restricted tires, and motor coach passenger seat mounting anchorages; amends the periodic inspection rules to eliminate the option for a motor carrier to satisfy the annual inspection requirement through a violation-free roadside inspection; and amends the inspector qualification requirements as a result of the amendments to the periodic inspection rules. In addition, FMCSA eliminates introductory regulatory text from an appendix to the FMCSRs because the discussion of the differences between the North American Standard Inspection out-of-service criteria and FMCSA's periodic inspection criteria is unnecessary. Effective date: July 22, 2016.

Parts 365-366, 368, 385, 390 and 392 (FR Vol. 81, No. 145, Pages 49553-49555, 7-28-16)

This final rule is correcting the effective and compliance dates for FMCSA's August 23, 2013, URS final rule, as revised on October 21, 2015. The 2013 URS final rule was issued to improve the registration process for motor carriers, property brokers, freight forwarders, intermodal equipment providers, hazardous material safety permit applicants, and cargo tank facilities required to register with FMCSA and streamline the existing federal registration processes to ensure FMCSA can more efficiently track these entities. The October 21, 2015, final rule made slight revisions to the 2013 rule and delayed the effective dates of that rule. This final rule corrects the effective and compliance dates, revised in 2015, and corrects regulatory provisions that have not yet gone into effect, as well as several temporary sections that are in effect already, to allow FMCSA additional time to complete the information technology systems work. Effective date: July 28, 2016.

Part 393, Appendix G (FR Vol. 81, No. 171, Pages 60633-60634, 9-02-16)

This final rule makes corrections to a final rule published in the Federal Register on July 22, 2016, regarding amendments to the FMCSRs in response to several petitions for rule making and NTSB recommendations. FMCSA makes several minor clerical corrections regarding the rear license plate lamp requirements and the periodic inspection requirements for antilock brake systems. Effective date: September 2, 2016.

Part 393 (FR Vol. 81, No. 185, Pages 65568-65574, 9-23-16)

This final rule amends FMCSA's regulations to allow the voluntary mounting of certain devices on the interior of the windshields of CMVs, including placement within the area that is swept by the windshield wipers. Section 5301 of the FAST Act directs FMCSA to amend the FMCSRs to allow devices to be mounted on the windshield that utilize "vehicle safety technology," as defined in the Act. In addition, Section 5301 states that all windshield-mounted devices/technologies with a limited two-year exemption in effect on the date of enactment, shall be considered to meet the equivalent-or-greater safety standard required for the initial exemption. Promulgation of this final rule is a nondiscretionary, ministerial action that does not require prior notice and public comment under the Administrative Procedure Act. Effective date: October 24, 2016.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the Nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

TRANSPORTATION DEPARTMENT[761](cont'd)

3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Operations and Finance Division, 800 Lincoln Way, Ames, Iowa 50010; e-mail address: tracy.george@iowadot.us.

5. Be received by the Department's rules administrator no later than January 24, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, January 26, 2017, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

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

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Department's rules administrator at the address listed in this Notice by February 6, 2017.

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

These amendments are intended to implement Iowa Code sections 321.188, 321.449, 321.450 and 327B.1.

Proposed rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2015~~ 2016).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2015~~ 2016).

ITEM 3. Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2014~~ 2016, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at <http://www.fmcsa.dot.gov>.

ITEM 4. Amend paragraph **607.10(1)“c”** as follows:

c. The following portions of 49 CFR Part 383 (October 1, ~~2015~~ 2016):

- (1) Section 383.51, Disqualification of drivers.
- (2) Subpart E—Testing and Licensing Procedures.
- (3) Subpart G—Required Knowledge and Skills.
- (4) Subpart H—Tests.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

January 1, 2016 — January 31, 2016	4.25%
February 1, 2016 — February 29, 2016	4.25%
March 1, 2016 — March 31, 2016	4.00%
April 1, 2016 — April 30, 2016	3.75%
May 1, 2016 — May 31, 2016	4.00%
June 1, 2016 — June 30, 2016	3.75%
July 1, 2016 — July 31, 2016	3.75%

USURY(cont'd)

August 1, 2016 — August 31, 2016	3.75%
September 1, 2016 — September 30, 2016	3.50%
October 1, 2016 — October 31, 2016	3.50%
November 1, 2016 — November 30, 2016	3.75%
December 1, 2016 — December 31, 2016	3.75%
January 1, 2017 — January 31, 2017	4.25%

ARC 2884C

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 11, "Collection of Public Assistance Debts," Iowa Administrative Code.

The Department must establish a claim when Supplemental Nutrition Assistance Program (SNAP) benefits are overpaid or trafficked. When collection of a claim is delinquent, the claim must be referred for recovery by the federal Treasury Offset Program (TOP). This amendment implements a change to Section 3716(c)(6) of Title 31, United States Code (U.S.C.), that shortens the time frame for referring delinquent claims to TOP. Under the revised time frames, claims must be referred to TOP if they are delinquent over 120 days, instead of if they are delinquent over 180 days.

Persons who owe a SNAP claim and are delinquent in making repayment will be referred to TOP sooner to withhold the debt from federal payments eligible for offset, such as income tax refunds.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2770C** on October 12, 2016. The Department received no comments during the public comment period. This amendment is identical to that published under Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Department finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective December 14, 2016, because the amendment confers a benefit on the public by ensuring that administrative rules are in compliance with federal requirements for more timely processing of claims. Federal statute 31 U.S.C. 3716(c)(6) recently changed and shortens the time frame for referring delinquent claims to TOP. Under the revised time frames, claims must be referred to TOP if they are delinquent over 120 days, instead of if they are delinquent over 180 days.

The Council on Human Services adopted this amendment on December 14, 2016.

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

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

This amendment is intended to implement Iowa Code section 234.6.

This amendment became effective December 14, 2016.

The following amendment is adopted.

Amend subparagraph **11.5(1)"a"(3)** as follows:

(3) Debtors are delinquent in repaying their food assistance debt if:

1. A repayment agreement has not been signed and ~~180~~ 120 days have elapsed since the due date of the demand letter as defined in 441—subrule 65.21(4) minus any days the claim was not subject to collection action because of an appeal.

2. A repayment agreement has been signed but the debtor has failed to make the agreed-upon payments and has failed to make up the missed payments. The debtor shall be referred to TOP when ~~180~~ 120 days have elapsed since the first of the month following the month that the debtor failed to make the agreed-upon payment and has not subsequently made up the missed payment.

[Filed Emergency After Notice 12/14/16, effective 12/14/16]

[Published 1/4/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/17.

ARC 2891C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 217.3(6) and 2016 Iowa Acts, House File 2460, section 12, the Department of Human Services amends Chapter 51, "Eligibility," and Chapter 52, "Payment," Iowa Administrative Code.

These amendments implement the January 1, 2017, cost-of-living adjustment (COLA) increases to the income limits and benefit amounts for several State Supplementary Assistance (SSA) categories. These amendments also implement the changed personal needs allowance for residential care facility assistance and family life home assistance. The net change to the personal needs allowance is a decrease due to a small COLA percentage increase that is offset by a decrease in the average monthly Medicaid copays used to calculate the amount of this deduction.

The Council on Human Services adopted these amendments on December 14, 2016.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because these amendments increase payment amounts and income limits under the SSA program in accordance with COLA increases in Supplemental Security Income (SSI) benefits, as required to meet federal pass-along requirements and by the Iowa General Assembly. In addition, according to the recent federal government announcement, the annual SSI COLA increases will become effective January 1, 2017, which will allow time for notice and public comment before the changes become effective.

Pursuant to Iowa Code sections 17A.5(2)"b"(1)(a) and (b), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective January 1, 2017. These amendments confer a benefit on the public and are in compliance with 2016 Iowa Acts, House File 2460, section 12.

These amendments are also published herein under Notice of Intended Action as **ARC 2890C** to allow for public comment.

These amendments do not provide for waivers in specified situations since the increases are required by federal and state law.

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

These amendments are intended to implement Iowa Code section 217.3(6) and 2016 Iowa Acts, House File 2460, section 12.

The Administrative Rules Review Committee reviewed these amendments on December 13, 2016.

These amendments became effective January 1, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 51.4(1) as follows:

51.4(1) Income. Income of a dependent relative shall be less than ~~\$377~~ \$379 per month. When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

ITEM 2. Amend rule 441—51.7(249) as follows:

441—51.7(249) Income from providing room and board. In determining profit from furnishing room and board or providing family life home care, ~~\$377~~ \$379 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

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

52.1(1) Protective living arrangement. The following assistance standards have been established for state supplementary assistance for persons living in a family-life home certified under rules in 441—Chapter 111.

HUMAN SERVICES DEPARTMENT[441](cont'd)

\$792 <u>\$797</u>	Care allowance
\$103 <u>\$100</u>	Personal allowance
<u>\$895</u> <u>\$897</u>	Total

ITEM 4. Amend subrule 52.1(2) as follows:

52.1(2) *Dependent relative.* The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

<i>a.</i> Aged or disabled client and a dependent relative	\$1,110 <u>\$1,114</u>
<i>b.</i> Aged or disabled client, eligible spouse, and a dependent relative	\$1,477 <u>\$1,482</u>
<i>c.</i> Blind client and a dependent relative	\$1,132 <u>\$1,136</u>
<i>d.</i> Blind client, aged or disabled spouse, and a dependent relative	\$1,499 <u>\$1,504</u>
<i>e.</i> Blind client, blind spouse, and a dependent relative	\$1,521 <u>\$1,526</u>

ITEM 5. Amend subrule 52.1(3) as follows:

52.1(3) *Residential care.* Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of ~~\$30.05~~ \$30.11. The department shall establish a cost-related per diem rate for each facility choosing this method of payment according to rule 441—54.3(249).

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 shall 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 shall 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) No change.
 - (2) An allowance of ~~\$103~~ \$100 to meet personal expenses and Medicaid copayment expenses.
 - (3) to (6) No change.
- b.* to *g.* No change.

[Filed Emergency 12/14/16, effective 1/1/17]

[Published 1/4/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/17.

ARC 2881C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 206.6(5)“b,” the Department of Agriculture and Land Stewardship hereby amends Chapter 45, “Pesticides,” Iowa Administrative Code.

This amendment adds a definition of the sensitive crop registry by including the FieldWatch™ program. This amendment reflects the Department’s planned move to the FieldWatch™ online registry tools for pesticide-sensitive crops to assist pesticide-sensitive crops, beekeepers and pesticide applicators.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2807C** on November 9, 2016. No comments were received from the public. This amendment is identical to that published under Notice.

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

This amendment is intended to implement Iowa Code section 206.6.

This amendment will become effective February 8, 2017.

The following amendment is adopted.

Adopt the following **new** definition of “Sensitive crop registry” in rule **21—45.1(206)**:

“*Sensitive crop registry*” means the sensitive crop registry designated by the department, which may include but is not limited to the FieldWatch™, Inc. program.

[Filed 12/14/16, effective 2/8/17]

[Published 1/4/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/17.

ARC 2882C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 206.5(7), the Department of Agriculture and Land Stewardship hereby amends Chapter 45, “Pesticides,” Iowa Administrative Code.

This amendment eliminates the requirement for an applicator’s social security number on the certificate of completion form for pesticide applicator continuing instruction courses.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2708C** on September 14, 2016. No comments were received from the public. This amendment is identical to that published under Notice.

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

This amendment is intended to implement Iowa Code section 206.5(7).

This amendment will become effective February 8, 2017.

The following amendment is adopted.

Amend subrule 45.52(4) as follows:

45.52(4) Certificate of completion.

a. The department shall adopt a standard certificate of completion form and provide the form to each registered provider. The form shall include the applicator’s name, ~~social security number~~, name of employer when applicable, course number, date and location of the course, the category or categories the course has been approved for and the signature of the course instructor.

b. Once a course is approved, the provider shall furnish a certificate of completion to each person who satisfactorily completes such a course. The certificate shall be signed by the course instructor. Providers shall also maintain a list of all persons who attend courses offered by ~~them~~ providers for continuing instruction for at least three years from the end of the year in which the courses are offered.

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

The list shall identify each participant by name, address, ~~social security number~~ and employer when applicable.

[Filed 12/14/16, effective 2/8/17]

[Published 1/4/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/17.

ARC 2883C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 99D.22(5), the Department of Agriculture and Land Stewardship hereby amends Chapter 62, "Registration of Iowa-Foaled Horses and Iowa-Whelped Dogs," Iowa Administrative Code.

This amendment will simplify the process for registering a standardbred horse as an Iowa-foaled horse by eliminating the requirement that the U.S. Trotting Association Certificate be physically sent to the Department. The Department is able to verify standardbred registration on the U.S. Trotting Association Web site.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2720C** on September 28, 2016. No comments were received from the public. This amendment is identical to that published under Notice.

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

This amendment is intended to implement Iowa Code section 99D.22(5).

This amendment will become effective February 8, 2017.

The following amendment is adopted.

Amend subrule 62.26(4) as follows:

~~62.26(4) To complete the official registration of an Iowa-foaled horse, the owner(s) must forward the department will verify registration with the U.S. Trotting Association Certificate to the department. If, and if the horse has met all requirements for registration Iowa-foaled Registration, the department shall place the name and number of the horse on the official department list of Iowa-foaled standardbreds, which. Placement on the list shall constitute the official certification of the horse, and return the certificate within ten working days from the date of receipt. If the U.S. Trotting Association Certificate is lost or destroyed, a duplicate U.S. Trotting Association Certificate for that horse must be forwarded to the department and must be recertified by the department as Iowa-foaled.~~

[Filed 12/14/16, effective 2/8/17]

[Published 1/4/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/17.

ARC 2879C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 99D.22(5), the Department of Agriculture and Land Stewardship hereby amends Chapter 62, "Registration of Iowa-Foaled Horses and Iowa-Whelped Dogs," Iowa Administrative Code.

This amendment eliminates a reference to an Iowa residency requirement for quarter horse stallion owners. This amendment was inadvertently omitted from **ARC 1582C** (IAB 8/20/14).

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

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2785C** on October 26, 2016. No comments were received from the public. This amendment is identical to that published under Notice.

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

This amendment is intended to implement 2014 Iowa Acts, Senate File 2185.

This amendment will become effective February 8, 2017.

The following amendment is adopted.

Amend subrule 62.32(3) as follows:

62.32(3) If 51 percent of the new ownership is a bona fide Iowa resident(s) and wishes to qualify the stallion as an Iowa stallion, then the new owner(s) must submit an application for an Iowa Stallion Eligibility Certificate; along with a copy of the bill of sale and meet all other department requirements.

[Filed 12/14/16, effective 2/8/17]

[Published 1/4/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/17.

ARC 2880C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 189A.7(8), the Department of Agriculture and Land Stewardship hereby amends Chapter 76, "Meat and Poultry Inspection," Iowa Administrative Code.

This amendment updates references to federal regulations in order to retain recognition of the state meat and poultry program.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2803C** on November 9, 2016. No comments were received from the public. This amendment is identical to that published under Notice.

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

This amendment is intended to implement Iowa Code section 159.5(8) and chapter 189A.

This amendment will become effective February 8, 2017.

The following amendment is adopted.

Amend rule 21—76.2(189A) as follows:

21—76.2(189A) Federal Wholesome Meat Act regulations adopted. Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 412, Part 416, Part 417, Part 418, Part 424, Part 430, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2016~~ 2017, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

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

[Filed 12/14/16, effective 2/8/17]

[Published 1/4/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/17.

ARC 2886C

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 36, "Facility Assessments," and Chapter 82, "Intermediate Care Facilities for Persons with an Intellectual Disability," Iowa Administrative Code.

These amendments change the timing and calculation of an intermediate care facilities for persons with an intellectual disability (ICF/ID) assessment. The change is to collect quarterly from the facilities based on paid claims, rather than withhold from claims monthly based on the prior period's annual revenue.

In addition to the timing and calculation of the fee, penalty provisions for late payments are included. The penalties include a 1.5 percent fee for late submissions and include suspension of payments after three months of delinquency.

Provisions regarding Medicaid reimbursement to ICFs/ID for assessment fees paid are amended to reflect current practice, modified according to the change in the timing and calculation of the assessment. Fees assessed are not currently treated as an allowable cost, which would be subject to cost-based limits. Rather, ICF/ID reimbursement includes an add-on based on the assessments as currently calculated. The amendments provide for an add-on to the per diem reimbursement rate based on the annual assessments paid by a facility, divided by total annual patient days. Obsolete provisions regarding payments to state-operated facilities during the transition to the ICF/ID assessments are rescinded.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2775C** on October 12, 2016. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on December 14, 2016.

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

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

These amendments are intended to implement Iowa Code sections 249A.4 and 249A.21.

These amendments will become effective February 8, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 441—36.1(249A) as follows:

441—36.1(249A) Assessment of fee. Intermediate care facilities for persons with an intellectual disability (ICFs/ID) licensed in Iowa under 481—Chapter 64, including facilities not certified to participate in the Medicaid program, shall pay a ~~monthly~~ quarterly fee to the department. Effective ~~January~~ July 1, 2008 2016, the fee shall equal 5.5 percent of ~~the total revenue of the facility actual paid claims, from all sources, for the facility's preceding fiscal year divided by the number of months of facility operation during the preceding fiscal year quarter.~~

ITEM 2. Amend rule 441—36.2(249A) as follows:

441—36.2(249A) Determination and payment of fee ~~for facilities certified to participate in the Medicaid program.~~ ~~For facilities certified to participate in the Medicaid program; For all ICFs/ID licensed in Iowa under 481—Chapter 64, including facilities not certified to participate in the Medicaid program,~~ the fee shall be determined and paid as follows:

36.2(1) ~~The assessment for each facility fiscal year shall be based on the financial and statistical report for the facility's preceding fiscal year submitted pursuant to rule 441—82.5(249A), as adjusted pursuant to 441—subrules 82.5(10) and 82.17(1).~~ Each facility shall pay the assessment to the department on a quarterly basis. The facility shall:

a. Use Form 470-5422, Intermediate Care Facilities for Individuals with an Intellectual Disability Assessment Calculation Worksheet, to calculate the quarterly fee due.

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b. Submit Form 470-5422 and the quarterly fee no later than 30 days following the end of each calendar quarter.

36.2(2) The department shall notify each facility of the amount of the fee assessed for each fiscal year following submission of the financial and statistical report for the facility's preceding fiscal year. The fee is subject to adjustment based on adjustments to the financial and statistical report. The facility shall calculate the amount of the quarterly fee due by multiplying 5.5 percent by the facility's total ICF/ID payments for services received from all sources during the preceding quarter, including but not limited to:

- a. Medicaid managed care payments.
- b. Client participation payments.
- c. Medicaid fee-for-service payments.
- d. Private pay/insurance payments.
- e. Ancillary service payments.

36.2(3) ICFs/ID shall pay the monthly amount due to the department. If the department determines that an ICF/ID has underpaid or overpaid the fee, the department shall notify the ICF/ID of the amount of the unpaid fee or refund due. Such amount shall be due or refunded within 30 days of the issuance of the notice.

36.2(4) Rescinded IAB 6/4/08, effective 5/15/08. An ICF/ID that fails to pay the fee within the time frame specified in subrule 36.2(3) shall pay a penalty in the amount of 1.5 percent of the unpaid fee due for each month or portion of a month that the unpaid fee is overdue.

a. If the ICF/ID substantiates good cause beyond the facility's control for failure to make timely payment of the fee, the department shall waive the penalty or a portion of the penalty. For purposes of this subrule, "good cause" shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

b. Requests for a good-cause waiver must be submitted to the Iowa Medicaid enterprise, provider cost audit and rate setting unit, within 30 days of notice to the facility that the penalty is due.

36.2(5) If a fee has not been received by the department by the last day of the third month after the fee is due, the department shall suspend payment due the ICF/ID under the medical assistance program, including payments made on behalf of the medical assistance program by a contracted managed care organization.

ITEM 3. Rescind and reserve rule **441—36.3(249A)**.

ITEM 4. Amend subrule 82.5(13) as follows:

82.5(13) Assessed fee. The fee assessed pursuant to 441—Chapter 36 shall not be an allowable cost for cost reporting and audit purposes. In lieu of treating the fee as an allowable cost, a per diem assessment amount is added to the reimbursement rate calculated under subrule 82.5(14), not subject to the maximum allowable base cost or maximum rate set at the eightieth percentile. The per diem assessment amount will be calculated by dividing the annual assessment paid by the reported total patient days.

a. For the purpose of implementing the assessment for facilities operated by the state, Medicaid reimbursement rates shall be recalculated effective October 1, 2003, as provided in paragraph "b."

b. For purposes of determining rates paid for services rendered after October 1, 2003, each state-operated facility's annual costs for periods before implementation of the assessment shall be increased by an amount equal to 6 percent of the facility's annual revenue for the preceding fiscal year.

[Filed 12/14/16, effective 2/8/17]

[Published 1/4/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/17.

ARC 2885C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 234.6 and 237.3, the Department of Human Services hereby rescinds Chapter 150, “Purchase of Service”; rescinds Chapter 152, “Foster Group Care Contracting,” and adopts a new Chapter 152, “Foster Care Contracting”; and amends Chapter 156, “Payments for Foster Care,” Chapter 172, “Family-Centered Child Welfare Services,” and Chapter 202, “Foster Care Placement and Services,” Iowa Administrative Code.

These amendments rescind and reserve Chapter 150 because the Department moved away from purchase of service contracts and is now contracting under performance-based contracts in accordance with the Accountable Government Act and the Department of Administrative Services’ service contracting rules. Chapter 150 is no longer relevant and is inconsistent with current performance-based contracting.

These amendments also rescind Chapter 152 and replace it with a new Chapter 152 pertaining to foster care contracting. New Chapter 152 will continue to set forth the contracting process used for foster group care but will also set forth the contracting processes used for the other child welfare services, specifically, of child welfare emergency services (CWES) and supervised apartment living.

These amendments update Chapter 156 to reflect current rate and payment practices. The previous methodology of determining rates that once considered remedial services is no longer used. Chapter 156 as revised will now include the rate methodology for CWES shelter care as well as payment information for foster group care (FGCS), foster family care, CWES shelter care, and supervised apartment living.

These amendments correct a cross reference to Chapter 156 in Chapter 172. The correction was made necessary by the amendments to Chapter 156 in this rule making.

Finally, these amendments replace cross references to Chapter 150 in Chapter 202 with references to the provider’s contract and to new Chapter 152.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2771C** on October 12, 2016. The Department did not receive any comments during the public comment period.

The Department conducted a technical review of the proposed amendments. As the result of that technical review, three changes to the amendments as published under Notice of Intended Action have been made. The technical changes addressed in these amendments are as follows:

The first technical change to the amendments pertains to Item 5 of the Notice of Intended Action. The proposed amendment to subrule 156.6(3) was incorrect. As a result, the amendment in Item 5 of the Notice of Intended Action was not adopted, and the remaining items have been renumbered accordingly.

The second technical issue found during the review was that the definition of “intellectual disability professional” did not properly reflect recent guidance from the federal Centers for Medicare and Medicaid Services. As a result, the amendments have been changed in Items 3, 5, and 6 herein to refer to “intellectual disabilities professional” rather than “intellectual disability professional.”

The third technical change made as a result of the review is in regards to proposed language found in Item 13 of the published Notice of Intended Action. The Department asked fiscal consultants to review the proposed language in these amendments. The fiscal consultants opined that there is no federal requirement mandating or recommending the use of a utilization level when calculating unit cost. The Department’s fiscal consultants concluded that, “although use of an effective utilization level may have some cost benefits, it may actually hinder the state’s ability to meet goals to limit lengthy terms in foster care, which is a federally mandated goal.” As a result of the Department’s fiscal consultants’ review, rule 441—156.11(234), in Item 12 herein, has been modified to remove proposed subrule 156.11(3), which contained the requirement to use an effective utilization level when calculating unit cost.

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

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

These amendments are intended to implement Iowa Code sections 234.6 and 237.3.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments will become effective March 1, 2017.

The following amendments are adopted.

ITEM 1. Rescind and reserve **441—Chapter 150**.

ITEM 2. Rescind 441—Chapter 152 and adopt the following new chapter in lieu thereof:

CHAPTER 152
FOSTER CARE CONTRACTING

PREAMBLE

This chapter sets forth the contracting process used for providers of foster group care, child welfare emergency services shelter, and supervised apartment living, including standards for rate-setting, payment mechanisms, and provider monitoring, audits, and sanctions. The terms of these contracts are limited to no more than six years pursuant to 11—Chapter 118. This chapter also establishes provider qualifications, service authorization procedures, documentation requirements, and service termination and appeal procedures associated with these foster care services. Refer to 441—Chapter 156 for additional program requirements.

441—152.1(234) Definitions.

“Affiliates” means persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another.

“Authorized representative,” within the context of rule 441—152.3(234), means that person appointed to carry out audit procedures, including an assigned auditor, fiscal consultant, or agent contracted for a specific audit or audit procedure.

“Bureau of service contract support” means the division of fiscal management bureau that is responsible for administering performance-based contracts.

“Child” means a person under 18 years of age or a person 18 or 19 years of age who meets the criteria in Iowa Code section 234.1.

“Claim” means each record the department receives that tells the amount of requested payment and the service rendered by a provider to a child and family.

“Client” means a child who has been found to be eligible for foster care services through the department of human services.

“Confidence level” means the probability that an overpayment or underpayment rate determined from a random sample of charges is less than or equal to the rate that exists in the universe from which the sample was drawn.

“Contract” means a formal written agreement between the department of human services and a provider of foster care services.

“Contract monitor” means a department employee who is assigned to assist in developing, monitoring, and evaluating a contract and to provide related technical assistance.

“Department” means the Iowa department of human services and includes the local offices of the department.

“Extrapolation” means using sample data meeting the confidence level requirement to estimate the total dollars of overpayment or underpayment.

“Family,” for purposes of child welfare service delivery, shall include the following:

1. The natural or adoptive parents, stepparents, domestic partner of the natural or adoptive parent, and children who reside in the same household.

2. A child who lives with an adult related to the child within the fourth degree of consanguinity and the adult relatives within the fourth degree of consanguinity in the child’s household who are responsible for the child’s supervision. Relatives within the fourth degree of consanguinity include: full or half siblings, aunts, uncles, great-aunts, great-uncles, nieces, great-nieces, nephews, great-nephews, grandparents, great-grandparents, great-great-grandparents, and first cousins.

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3. A child who lives alone or who resides with a person or persons not legally responsible for the child's support.

"Fiscal record" means a tangible and legible history that documents the criteria established for financial and statistical records as set forth in subrule 152.2(5).

"Grant" means an award of funds to develop specific programs or achieve specific outcomes.

"Juvenile court officer" means a person appointed as a juvenile court officer or chief juvenile court officer under Iowa Code chapter 602.

"Level of care" means a type of foster group care service that is differentiated by the ratio of staff to children. There are three levels of foster group care services:

1. Community-level group care (service code D1), which requires a minimum staff-to-client ratio of 1 to 8 during prime programming time.

2. Comprehensive-level group care (service code D2), which requires a minimum staff-to-client ratio of 1 to 5 during prime programming time.

3. Enhanced comprehensive-level group care (service code D3), which requires a minimum staff-to-client ratio during prime programming time as follows:

- 1 staff person for facilities serving up to 4 children.
- 2 staff persons for facilities serving 5 to 7 children.
- 3 staff persons for facilities serving 8 to 10 children.
- 4 staff persons for facilities serving 11 to 13 children.
- 5 staff persons for facilities serving 14 to 16 children.
- 6 staff persons for facilities serving 17 to 19 children.
- 1 staff person for every 3 children for facilities serving 20 or more children.

"Non-prime programming time" means any period of the day other than prime programming time and sleeping time.

"Overpayment" means any payment or portion of a payment made to a provider that is incorrect according to the laws and rules applicable to foster care services and results in a payment greater than that to which the provider is entitled.

"Prime programming time" means any period of the day when special attention, supervision, or treatment is necessary (for example, upon awakening of the clients in the morning until their departure for school, during meals, after school, during transition between activities, evenings and bedtime, and on nonschool days such as weekends, holidays, and school vacations).

"Probation" means a specified period of conditional participation in the provision of foster care services.

"Provider" means the entity that has executed a contract with the department to provide services.

"Random sample" means a systematic (or every "nth" unit) sample for which each item in the universe has an equal probability of being selected.

"Referral worker" means the department worker or juvenile court officer who refers the case to a provider and who is responsible for carrying out the follow-up activities of determining client eligibility and ensuring that the service authorization is completed.

"Service authorization" means the process of determining service necessity and the level of care and number of units of service to be provided to a child.

"Service record" means an individual, tangible, and legible file that records service-related activities set forth in subrule 152.2(4).

"Site" means each licensed location of the foster care provider.

"Sleeping time" means any period of the day during which clients are normally sleeping.

"Suspension of payments" means the withholding of all payments due a provider until resolution of the matter in dispute between the provider and the department.

"Underpayment" means any payment or portion of a payment not made to a provider for services delivered to eligible recipients according to the laws and rules applicable to the foster care services program and to which the provider is entitled.

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

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“*Universe*” means all items (claims) submitted by a specific provider for payment during a specific period, from which a random sample will be drawn.

“*Withholding of payments*” means a reduction or adjustment of the amounts paid to a provider on pending and subsequently submitted claims for purposes of offsetting overpayments previously made to the provider.

441—152.2(234) Conditions of participation.

152.2(1) *Provider licensure.* A provider facility shall obtain licensure prior to accepting placements from the department.

152.2(2) *Provider staffing.* At a minimum, all providers shall meet all licensure requirements for staff qualifications, training, and number of staff pursuant to 441—Chapter 105, Chapter 108, or Chapter 114.

152.2(3) *Provider charges.* A provider shall not charge departmental clients more than it receives for the same foster care services provided to nondepartmental clients. The provider shall agree not to require any fee from departmental clients unless a fee is required by the department and is consistent with federal regulation and state policy.

152.2(4) *Maintenance of service records.* A provider shall maintain complete and legible records as required in this subrule.

a. For foster group care and shelter care, the provider shall establish and maintain confidential, individual service records for each client receiving foster care services. The service records must adequately support the provision of child welfare services and group care maintenance as defined in rule 441—156.1(234). The service record shall include, at a minimum, those items identified in rule 441—114.11(237) and 441—Chapter 105 and shall also include all of the following:

- (1) Additional reports, if requested by the referral worker.
- (2) Form 470-3055, Referral and Authorization for Child Welfare Services.
- (3) Daily documentation of billed per diem services. The documentation shall include:

1. The child’s first and last name;
2. The month, day, and year service was provided;
3. The first and last names of the persons who provided the service;
4. A clear description of the specific service rendered, including interventions, actions, and activities performed which support the provision of child welfare services.

(4) Notes, which shall be entered no less than every seven calendar days, indicating the child’s general progress in regard to the child’s care plan.

- (5) Any problem areas or unusual behavior for the child.

b. For supervised apartment living, the provider shall establish and maintain confidential, individual service records for each client receiving supervised apartment living services. The service records must adequately support the provision of services consistent with rules 441—108.10(238) and 441—202.9(234).

c. Failure to maintain records or failure to make records available to the department or to its authorized representatives upon request may result in a notice of violation and recoupment of payments pursuant to rules 441—152.3(234) and 441—152.4(234).

152.2(5) *Maintenance of financial and statistical records.* The provider shall maintain sufficient financial and statistical records, including program and census data, to document the validity of the reports submitted to the department. The records shall be available for review at any time during normal business hours by department personnel, the department’s fiscal consultant, and state or federal audit personnel.

a. At a minimum, financial and statistical records shall include all revenue and expenses supported by a provider’s general ledger and documentation on file in the provider’s office. These records include, but are not limited to:

- (1) Payroll information.
- (2) Capital asset schedules.
- (3) All canceled checks, deposit slips, and invoices (paid and unpaid).

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- (4) Audit reports (if any).
- (5) The board of directors' minutes (if applicable).
- (6) Loan agreements and other contracts.
- (7) Reviewable, legible census reports and documentation of units of service provided to departmental clients that identify the individual client and are kept on a daily basis and summarized in a monthly report.
- (8) For nondepartmental clients, sufficient documentation of utilization to establish a complete unit of service count.

b. The provider shall maintain a list of all staff and supervisors providing foster care services and their qualifications for each program.

c. Independent audits. When a provider has an audit conducted, a firm not related to the provider shall conduct the audit. The provider shall submit a copy of the independent audit report to the department within 30 days of receipt of the report. The bureau of service contract support shall maintain the report.

152.2(6) Cost report. Providers shall complete Form 470-5421, Combined Cost Report, as required by contract. The instructions for the cost report are found in Comm. 502 (7/16), Instructions for the Combined Cost Report.

a. Due date. The cost report shall be submitted to the department no later than three months after the close of the provider's established fiscal year. The provider may request a one-month extension from the chief of the bureau of service contract support.

b. Opinion of accountant. The department may require that an opinion of a certified public accountant or public accountant accompany the report when adjustments made to prior reports indicate noncompliance with reporting instructions.

c. County reimbursement for child welfare services shelter costs. If a shelter care provider's actual and allowable costs as set forth in 441—Chapter 156 for a child's shelter care placement exceed the amount the department is authorized to pay and the provider is reimbursed by the child's county of legal settlement for the difference between actual and allowable costs and the amount reimbursed by the department, the amount paid by the county shall not be included by the department in its reimbursement rate determination, as long as the amount paid is not greater than the provider's actual and allowable costs or the statewide average of actual and allowable costs as identified in annual appropriations, whichever is less.

441—152.3(234) Provider reviews. The department may, at its discretion, review any provider at any time. Records generated and maintained by the department or its fiscal agent may be used by reviewers and in all proceedings of the department.

152.3(1) Review of provider records. The department shall have the authority to conduct a scheduled or unannounced visit to evaluate the adequacy of service records in compliance with the policies and procedures for foster care services.

152.3(2) Purpose. Upon proper identification, authorized representatives of the department shall have the right to review the service and fiscal records of the provider to determine whether:

- a.* The department has accurately paid claims for services.
- b.* The provider has furnished the services.
- c.* The provider has retained service records and fiscal records that substantiate claims submitted for payment during the review period.

d. Expenses reported to the department have been handled as required under subrule 152.2(6).

152.3(3) Method. The department shall select the appropriate method of conducting a review and shall protect the confidential nature of the records being reviewed. The provider may be required to furnish records to the department. The provider may select the method of delivering any requested records to the department. Review procedures may include, but are not limited to, the following:

- a.* Comparing service and fiscal records with each claim.
- b.* Interviewing clients and employees of providers.

152.3(4) Sampling. The department's procedures for reviewing a provider's service records may include the use of random sampling and extrapolation. When these procedures are used, all sampling

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will be performed within acceptable statistical methods, yielding not less than a 95 percent confidence level.

a. Findings. The review findings generated through the review procedure shall constitute prima facie evidence in all department proceedings of the number and amount of requests for payment as submitted by the provider.

b. Extrapolation. Findings of the sample will be extrapolated to the universe for the review period. The total of the payments determined to be in error in the review sample shall be divided by the total payments in the reviewed sample to calculate the percentage of dollars paid in error. This percentage shall then be multiplied by the total payments in the review universe to determine the extrapolated overpayment.

c. Disagreement with findings. When the provider disagrees with the department's review findings and the findings have been generated through sampling and extrapolation, the provider may present evidence to show that the sample was invalid. The burden of proof of compliance rests with the provider. The evidence may include a 100 percent review of the universe of provider records used by the department in the drawing of the department's sample. This review shall:

- (1) Be arranged and paid for by the provider.
- (2) Be conducted by a certified public accountant.
- (3) Demonstrate that bills and records not reviewed in the department's sample complied with program regulations and requirements.
- (4) Be submitted to the department with all supporting documentation.

152.3(5) Actions based on review findings.

a. The department shall report the results of a review of provider records to concerned parties consistent with the provisions of 441—Chapter 9.

b. When an overpayment is found, the department may do one or more of the following:

- (1) Request repayment in writing.
- (2) Impose sanctions provided for in rule 441—152.4(234).
- (3) Investigate and refer the matter to an agency empowered to prosecute.

441—152.4(234) Sanctions against providers. Failure to meet the requirements relevant to provider contracting, financial record keeping, billing and payment, and client record keeping may subject providers to sanctions.

152.4(1) Grounds for sanction. The department may impose sanctions against a provider for committing one or more of the following actions:

a. Failing to provide and maintain the quality of the services to children and families within established standards, including:

- (1) Failing to meet standards required by state or federal law for licensure.
- (2) Failing to correct deficiencies in provider operations after receiving notice of these deficiencies from the department.
- (3) Engaging in a course of conduct or performing an act that is in violation of state or federal regulations or continuing that conduct following notification that it should cease.
- (4) Violating any laws, regulations, or code of ethics governing the conduct of occupations or professions subject to this chapter.
- (5) Receiving a formal reprimand or censure by an association of the provider's peers for unethical practices.

- (6) Being suspended or terminated from participation in another governmental program.

- (7) Committing a negligent practice resulting in client death or injury.

b. Failing to disclose or make available to the department or its authorized agent records of services provided to a child and family and records of payments made for those services.

c. Failing to provide accurate and auditable cost report information or engaging in deceptive billing practices, such as, but not limited to:

- (1) Presenting or causing to be presented for payment any false or deceptive claim for services.

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(2) Submitting or causing to be submitted false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled.

d. Submitting or causing to be submitted false information to meet service authorization requirements.

e. Inducing, furnishing or otherwise causing the child or family to receive foster care services that are not authorized (overutilization of services).

f. Rebating or accepting a fee or portion of a fee or a charge for referrals of a child or family.

g. Failing to repay or arrange for the repayment of identified overpayments or other erroneous payments.

h. Failing to submit the cost report on time or failing to submit complete responses to follow-up questions from the department or its fiscal consultant within 14 days of request without written approval from the chief of the bureau of service contract support.

152.4(2) *Notice of violation.* Should the department have information that indicates that a provider may have submitted bills or been practicing in a manner inconsistent with the program requirements, or may have received payment for which the provider may not be properly entitled, the department shall notify the provider of the discrepancies noted.

a. Notification shall set forth:

(1) The nature of the discrepancies or violations.

(2) The known dollar value of the discrepancies or violations.

(3) The method of computing the dollar value.

(4) Further actions to be taken or sanctions to be imposed by the department.

(5) Any actions required of the provider.

b. The provider shall have 15 days after the date of the notice to appeal to the contract owner.

152.4(3) *Sanctions.* The following sanctions may be imposed on providers based on the grounds specified in subrule 152.4(1):

a. A term of probation for provision of foster care services.

b. Termination from participation in the provision of foster care services.

c. Suspension from provision of foster care services.

d. Suspension or withholding of payments to the provider.

e. Review of 100 percent of the provider's claims before payment.

f. Referral to the appropriate state licensing board for investigation.

g. Referral of the matter to appropriate federal or state legal authorities for investigation and prosecution under applicable federal or state laws.

h. Suspension of foster care services licensure.

i. Termination of foster care services licensure.

j. Reduction of payment to 75 percent of the current rate for failure to submit the cost report or cost report clarifications timely.

k. Termination of the provider's contract for failure to submit the report within six months of the end of the fiscal year.

152.4(4) *Imposition and extent of sanction.* The department shall determine the sanction to impose. The following factors shall be considered in determining the sanction or sanctions to be imposed:

a. Seriousness of the offense.

b. Extent of violations.

c. History of prior violations.

d. Prior imposition of sanctions.

e. Prior provision of technical assistance.

f. Pattern of failure to follow program rules.

g. Whether a lesser sanction will be sufficient to remedy the problem.

h. Actions taken or recommended by peer review groups or licensing bodies.

152.4(5) *Scope of sanction.*

a. The sanction may be applied to all known affiliates of a provider. Each decision to include an affiliate shall be made on a case-by-case basis after giving due regard to all relevant factors and

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circumstances. The violation, failure, or inadequacy of performance may be imputed to a person with whom the violator is affiliated when the conduct was committed in the course of official duty or was effectuated with the knowledge or approval of that person.

b. When there are grounds for sanction pursuant to subrule 152.4(1) against a provider facility, campus, or site, the department may suspend or terminate the provision of foster care services by:

- (1) The provider; or
- (2) The specific facility, campus, or site; or
- (3) Any individual within the provider's organization who is responsible for the violation.

c. No provider shall submit claims for payments to the department for any services provided by any facility, campus, site, or person within the organization that has been suspended or terminated from provision of foster care services, except for those services provided before the suspension or termination.

d. Suspension or termination from provision of foster care services shall preclude the submission of claims to the department for payment for any services provided after suspension or termination, whether submitted personally or through the provider.

152.4(6) *Suspension or withholding of payments pending a final determination.* When the department has notified a provider of a violation pursuant to paragraph 152.3(5) "b" or subrule 152.4(2) and has demanded repayment of an identified overpayment, the department may withhold payments on pending and subsequently received claims in an amount reasonably calculated to approximate the amounts in question or may suspend payments pending a final determination. When the department intends to withhold or suspend payments, it shall notify the provider in writing.

152.4(7) *Notice of sanction.* When a provider has been sanctioned, the department shall notify, as appropriate, the applicable professional society, board of registration or licensure, and federal or state agencies of the findings made and the sanctions imposed.

441—152.5(234) Adverse actions. Notice of adverse actions and the right to appeal the licensing decision shall be given to applicants and licensees in accordance with 441—Chapter 7.

These rules are intended to implement Iowa Code section 234.6.

ITEM 3. Amend rule **441—156.1(234)**, definitions of "Department," "Director," "Escrow account," "Mental retardation professional," "Physician," "Service area manager," "Special needs child," and "Unearned income," as follows:

"Department" means the Iowa department of human services and includes the local offices of the department.

"Director" means the director of the ~~child support recovery unit of the department of human services~~ or the director's designee.

"Escrow account" means an interest bearing account in a bank or savings and loan association ~~which~~ that is maintained by the department in the name of a particular child.

~~"Mental retardation professional"~~ *Intellectual disabilities professional* means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and has at least one year of experience working with persons with ~~mental retardation~~ an intellectual disability.

"Physician" means a licensed medical or osteopathic doctor as defined in ~~rule 441—77.1(249A)~~ Iowa Code section 135.1(4).

"Service area manager" means the department employee or designee responsible for managing department offices and personnel within ~~a department~~ the service area and for implementing policies and procedures of the department.

"Special needs child" means a child with needs for emotional care, behavioral care, or physical and personal care ~~which~~ that require additional ~~skill~~ skills, knowledge, or responsibility on the part of the foster parents, as measured by Form 470-4401, Foster Child Behavioral Assessment. See subrule 156.6(4).

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“Unearned income” means any income ~~which~~ that is not earned income and includes supplemental security income (SSI) and other funds available to a child residing in a foster care placement.

ITEM 4. Adopt the following **new** definitions of “Inflation factor,” “Prevailing rate,” and “Provider” in rule **441—156.1(234)**:

“Inflation factor” means the amount by which the consumer price index for all urban consumers increased during the calendar year ending December 31 that preceded the contractor’s fiscal year end.

“Prevailing rate” means the maximum combined service and maintenance reimbursement rate the department pays to contracted shelter care providers as authorized by the legislature.

“Provider” means the entity that has executed a contract with the department to provide services.

ITEM 5. Amend paragraph **156.6(4)“e”** as follows:

e. Effective January 1, 2007, when a service area manager determines that as of October 31, 2006, a foster family was providing care for a child comparable to behavioral management services for children in therapeutic foster care, except that the placement is supervised by the department and the child’s treatment plan is supervised by a physician, a mental health professional, or ~~mental retardation~~ an intellectual disabilities professional, the foster family shall be paid the basic maintenance rate plus \$15 per day for that child. This rate shall continue for the duration of the placement.

ITEM 6. Amend paragraph **156.8(6)“b”** as follows:

b. Fees related to enrolling a child in preschool when a mental health professional or ~~a mental retardation~~ an intellectual disabilities professional has recommended school attendance.

ITEM 7. Amend subrule 156.9(1) as follows:

156.9(1) *In-state reimbursement.* ~~Effective November 1, 2006, public and private~~ July 1, 2014, ~~contracted~~ foster group care facilities licensed or approved in the state of Iowa shall be paid for group care maintenance and child welfare services in accordance with ~~the rate-setting methodology in this subrule~~ contracted terms.

~~*a.*—A provider of group care services shall maintain at least the minimum staff-to-child ratio during prime programming time as established in the contract. Staff shall meet minimum qualifications as established in 441—Chapters 114 and 115. The actual number and qualifications of the staff will vary depending on the needs of the children.~~

~~*b. a.*~~ Additional payment for group care maintenance may be authorized if a facility provides care for a mother and her young child according to subrule 156.9(4).

~~*c.*—Reimbursement rates shall be adjusted based on the provider’s rate in effect on October 31, 2006, to reflect an estimate that group care providers will provide an average of one hour per day of group remedial services and one hour per week of individual remedial services. Subject to paragraph 156.9(1)“c,” the reimbursement rate shall be calculated as follows:~~

~~(1) Step 1. Annualize the provider’s combined daily reimbursement rate for maintenance and service in effect on October 31, 2006, by multiplying that combined rate by 365 days.~~

~~(2) Step 2. Annualize the provider’s remedial services reimbursement rate for one hour per day of remedial services code 96153 (health and behavioral interventions—group), as established by the Iowa Medicaid enterprise, by multiplying that rate by 365 days.~~

~~(3) Step 3. Annualize the provider’s remedial services reimbursement rate for one hour per week of remedial services code 96152 (health and behavioral interventions—individual), as established by the Iowa Medicaid enterprise, by multiplying that rate by 52 weeks.~~

~~(4) Step 4. Add the amounts determined in Steps 2 and 3.~~

~~(5) Step 5. Subtract the amount determined in Step 4 from the amount determined in Step 1.~~

~~(6) Step 6. Divide the amount determined in Step 5 by 365 to compute the new combined maintenance and child welfare service per diem rate.~~

~~(7) Step 7. Determine the maintenance portion of the per diem rate by multiplying the new combined per diem rate determined in Step 6 by 85.62 percent.~~

~~(8) Step 8. Determine the child welfare service portion of the per diem rate by multiplying the new combined per diem rate determined in Step 6 by 14.38 percent.~~

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EXAMPLE: Provider A has the following rates as of October 31, 2006:

- A combined daily maintenance and service rate of \$121.45;
- A Medicaid rate for service code 96153 of \$5.10 per 15 minutes, or \$20.40 per hour;
- A Medicaid rate for service code 96152 of \$19.92 per 15 minutes, or \$79.68 per hour.

Step 1. $\$121.45 \times 365 \text{ days} = \$44,329.25$

Step 2. $\$20.40 \times 365 \text{ days} = \$7,446.00$

Step 3. $\$79.68 \times 52 \text{ weeks} = \$4,143.36$

Step 4. $\$7,446.00 + \$4,143.36 = \$11,589.36$

Step 5. $\$44,329.25 - \$11,589.36 = \$32,739.89$

Step 6. $\$32,739.89 \div 365 \text{ days} = \89.70

Step 7. $\$89.70 \times 0.8562 = \$76.80 \text{ maintenance rate}$

Step 8. $\$89.70 \times 0.1438 = \$12.90 \text{ child welfare service rate}$

Subject to paragraph 156.9(1) "c," provider A's rates are \$76.80 for maintenance and \$12.90 for child welfare services.

d. b. No less than annually, the department shall redetermine the allocation of the combined child welfare service per diem rate between the maintenance and service portions plus the inflation factor based on review of the verified remedial services cost reports for foster group care services providers Form 470-5421, Combined Cost Report. If the new allocation differs from the current allocation, the department shall:

(1) Reallocate the combined child welfare service per diem for foster group care between the maintenance and service portions plus the inflation factor of the combined rate; and

(2) Notify all providers of any change in the allocation between maintenance and service rates and the effective date.

e. ~~Effective July 1, 2014, the combined service and maintenance reimbursement rate for a service level under the department's reimbursement methodology shall be at least the amount below. If a group foster care provider's reimbursement rate for a service level as of June 30, 2014, is more than the amount below, the provider's reimbursement shall remain at the higher rate.~~

~~(1) For service level, community - D1, the daily rate shall be at least \$87.60.~~

~~(2) For service level, comprehensive - D2, the daily rate shall be at least \$119.09.~~

~~(3) For service level, enhanced - D3, the daily rate shall be at least \$131.09.~~

ITEM 8. Amend subrule 156.9(2) as follows:

156.9(2) Out-of-state group care payment rate. The payment rate for maintenance and child welfare services provided by public or private agency group care licensed or approved in another state shall be established using the same rate-setting methodology as that in subrule 156.9(1), unless the director ~~When the department determines that appropriate care is not available within the state pursuant to the following criteria and procedures in Iowa and a licensed or approved contractor outside Iowa is used, the payment rate for contracted foster group care services shall be the Iowa rate unless the director grants an exception. The rate shall not exceed the rate paid for clients from that state.~~

~~a. *Criteria.* When determining whether appropriate care is available within the state, the director shall consider each of the following:~~

~~(1) Whether the child's treatment needs are exceptional.~~

~~(2) Whether appropriate in-state alternatives are available.~~

~~(3) Whether an appropriate in-state alternative could be developed by using juvenile court-ordered service fund or wrap-around funds.~~

~~(4) Whether the placement and additional payment are expected to be time-limited with anticipated outcomes identified.~~

~~(5) If the placement has been approved by the service area manager or chief juvenile court officer.~~

~~b. *Procedure.* The service area manager or chief juvenile court officer shall submit the request for director's exception to the Appeals Section, Department of Human Services, Fifth Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114. This request shall be made in advance of placing the~~

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~~child and should allow a minimum of two weeks for a response. The request shall contain documentation addressing the criteria for director's approval listed in 156.9(2) "a."~~

~~c. Appeals. The decision of the director regarding approval of an exception to the rate determination in rule 441—152.3(234) is not appealable.~~

ITEM 9. Adopt the following new subrule 156.9(3):

156.9(3) Out-of-state placement determination.

a. *Placement.* When determining whether appropriate care is available within the state, the director shall consider each of the following:

- (1) Whether the child's treatment needs are exceptional.
- (2) Whether appropriate in-state alternatives are available.
- (3) Whether an appropriate in-state alternative could be developed by using juvenile court-ordered service funds or wrap-around funds.
- (4) Whether the placement and additional payment are expected to be time-limited with anticipated outcomes identified.

(5) If the placement has been approved by the service area manager or chief juvenile court officer.

b. *Procedure.* The service area manager or chief juvenile court officer shall submit the request for director's exception to the Appeals Section, Department of Human Services, Hoover State Office Building, Fifth Floor, Des Moines, Iowa 50319-0114. This request shall be made in advance of placing the child and should allow a minimum of two weeks for a response. The request shall contain documentation addressing the criteria for director's approval listed in paragraph 156.9(3) "a."

c. *Appeals.* The decision of the director regarding approval of an exception to the rate determination in rule 441—156.9(234) is not appealable.

ITEM 10. Amend subrule 156.9(4) as follows:

156.9(4) Mother-young child rate. When a group foster care facility provides foster care for a mother and her young child, ~~the an additional~~ maintenance rate for the mother shall ~~include an additional amount to cover the actual and allowable~~ maintenance needs of the young child. No additional amount shall be allowed for service needs of the child.

a. The rate shall be ~~determined according to the policies in rule 441—152.3(234) and added to the maintenance rate for the mother set in the provider contract.~~ The young child ~~portion of the~~ maintenance rate shall be limited to the costs associated with food, clothing, shelter, personal incidentals, and supervision for each young child and shall not exceed the maintenance rate for the mother. Costs for day care shall not be included in the maintenance rate.

~~b. The additional amount included in the maintenance rate for the mother by this subrule to cover the maintenance needs of the young child shall be in addition to the minimum rate provided by paragraph 156.9(1) "e."~~

~~c. b.~~ Unless the court has transferred custody from the mother, the mother shall have primary responsibility for providing supervision and parenting for the young child. The facility shall provide services to the mother to assist her to meet her parenting responsibilities and shall monitor her care of the young child.

~~d. c.~~ The facility provider shall provide services to the mother to assist her to:

- (1) Obtain a high school diploma or ~~general education equivalent (GED)~~ high school equivalency.
- (2) to (4) No change.

~~e. d.~~ The agency provider shall maintain information in the mother's file on:

- (1) to (3) No change.
- (4) Plan for the minor's completion of high school or a ~~GED~~ high school equivalency program.
- (5) to (8) No change.

~~f. e.~~ The agency provider shall designate \$35 of the young child rate as an allowance to the mother to meet the maintenance needs of her young child, as defined in her case permanency plan.

ITEM 11. Amend subrule 156.10(1), introductory paragraph, as follows:

156.10(1) Group care facilities. The department shall provide payment for group care maintenance and child welfare services according to the following ~~policies~~ requirements.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 12. Rescind rule 441—156.11(234) and adopt the following new rule in lieu thereof:

441—156.11(234) Emergency juvenile shelter care payment. Contracted juvenile shelter care facilities approved or licensed in Iowa shall be paid according to the following rate-setting methodology.

156.11(1) The combined service and maintenance reimbursement rate paid to a shelter care provider shall be based on the verified Form 470-5421, Combined Cost Report, submitted to the department, but shall not exceed the prevailing rate. The department shall adjust the provider's reimbursement rate to the provider's actual and allowable cost, plus the inflation factor and the \$3.99 allowance originated under the tobacco settlement fund, or to the prevailing rate, whichever is less, effective the first day of the month following the department's receipt from the fiscal consultant of the provider's verified cost for the most recently reviewed fiscal year.

156.11(2) Net allowable expenditures are limited to those costs that are considered reasonable, necessary, and related to the service provided to the client as set forth in Comm. 502 (7/16), Instructions for the Combined Cost Report.

ITEM 13. Amend rule 441—156.15(234) as follows:

441—156.15(234) Child's earnings. Earned income of a child who is ~~not in a supervised apartment living arrangement and who is a full-time student or engaged in an educational or training program in foster care~~ shall be reported to the department, and ~~its the earned income's use shall be a part of a the child's plan for service, but the income shall not be used towards the cost of the child's care as established by the department. When the earned income of children in supervised apartment living arrangements or of other children exceeds the foster care standard, the income in excess of the standard shall be applied to meet the cost of the child's care. When the income of the child exceeds twice the cost of maintenance, the child shall be discontinued from foster care.~~

ITEM 14. Rescind and reserve rule **441—156.19(237)**.

ITEM 15. Amend paragraph **156.20(1)“a”** as follows:

a. Youth under the age of 18 shall be eligible based on legal status, subject to certain limitations.

(1) Legal status. The youth's placement shall be based on one of the following legal statuses:

1. The court has ordered foster care placement pursuant to Iowa Code section ~~232.52, subsection 2, paragraph “d,” Iowa Code section 232.102, subsection 1, Iowa Code section 232.117, or Iowa Code section 232.182, subsection 5~~ 232.52(2) “d,” 232.102(1), 232.117, or 232.182(5).

2. The child is placed in shelter care pursuant to Iowa Code section ~~232.20, subsection 1, 232.20(1) or Iowa Code section 232.21.~~

3. The department has agreed to provide foster care under a voluntary placement agreement pursuant to rule 441—202.3(234).

(2) Limitations. Department payment for group care shall be limited to placements ~~which that~~ have been authorized by the department and ~~which that~~ conform to the service area group care plan developed pursuant to rule 441—202.17(232). Payment for an out-of-state group care placement shall be limited to placements approved pursuant to 441—subrule 202.8(2).

ITEM 16. Amend subparagraph **156.20(1)“b”(3)** as follows:

(3) Exceptions. An exception to subparagraphs (1) and (2) shall be granted for all unaccompanied refugee minors. The child's eligibility for the exception shall be documented in the case record. The service area manager or designee shall grant an exception for other children when the child meets all of the following criteria. ~~The child's eligibility for the exception shall be documented in the case record.~~

1. The child does not have ~~mental retardation~~ an intellectual disability. Funding for services for persons with ~~mental retardation~~ an intellectual disability is the responsibility of the county or state pursuant to Iowa Code section 222.60.

2. and 3. No change.

4. Funds are available in the service area's allocation. When the service area manager has approved payment for foster care pursuant to this subparagraph, funds ~~which that~~ may be necessary to provide payment for the time period of the exception, not to exceed the current fiscal year, shall be

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considered encumbered and no longer available. Each service area's funding allocation shall be based on the service area's portion of the total number of children in foster care on March 31 preceding the beginning of the fiscal year, who would no longer be eligible for foster care during the fiscal year due to age, excluding unaccompanied refugee minors.

ITEM 17. Amend paragraph **156.20(1)“c,”** introductory paragraph, as follows:

c. A young mother shall be eligible for the extra payment for her young child living with her in care as set forth in ~~subrule 156.6(4),~~ paragraph “a,” 156.6(4)“a” and subrule 156.9(4) if all of the following apply:

ITEM 18. Rescind subrule 156.20(2) and adopt the following **new** subrule in lieu thereof:

156.20(2) Provider eligibility for payment. Providers of foster care services shall have a foster care services contract under 441—Chapter 152 in force.

ITEM 19. Amend paragraph **172.13(3)“e”** as follows:

e. Shelter care payment as provided in ~~441—subrule 156.11(3)~~ rule 441—156.11(234) if the child is placed in shelter care.

ITEM 20. Amend paragraph **202.9(3)“g”** as follows:

g. If services are purchased, compliance by the provider with all reporting requirements ~~in 441—paragraph 150.3(3)“j,”~~ as required by the provider's contract with the department, including requirements for the individual service plan, quarterly reports, and a termination summary.

ITEM 21. Amend paragraph **202.9(4)“d”** as follows:

d. Expenses of transporting the child, service management activities, and other administrative functions shall be allowable indirect costs subject to the restrictions set forth in ~~rule 441—150.3(234)~~ 441—subrule 152.2(6) and are not billable units of service.

[Filed 12/14/16, effective 3/1/17]

[Published 1/4/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/4/17.

ARC 2889C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Iowa Department of Transportation, on December 14, 2016, adopted amendments to Chapter 1, “Organization of the Department of Transportation,” Chapter 10, “Administrative Rules,” Chapter 11, “Waiver of Rules,” Chapter 12, “Declaratory Orders,” Chapter 112, “Primary Road Access Control,” and Chapter 115, “Utility Accommodation,” Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the October 26, 2016, Iowa Administrative Bulletin as **ARC 2779C**.

The amendments to Chapter 1, the Department's organizational chapter:

- Update the mission of the Department.
- Add the Department's Web site.
- Amend the rules to reflect current responsibilities pursuant to changes made to Iowa Code chapter 307 and section 307A.2 and current agency operation.
- Update the chapter's implementation sentence.

The amendments also remove references to the Office of Policy and Legislative Services since this office no longer exists within the Department.

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

TRANSPORTATION DEPARTMENT[761](cont'd)

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

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

These amendments are intended to implement Iowa Code sections 17A.3 and 307A.2 and chapter 307.

These amendments will become effective February 8, 2017.

Rule-making actions:

ITEM 1. Amend rule 761—1.2(17A) as follows:

761—1.2(17A) Mission statement. ~~The mission of the department is to promote a transportation system to satisfy user needs and maximize economic and social benefits for Iowa citizens, to encourage and support programs to provide commodity movement and mobility for all citizens, and to promote financing of the transportation system through user and nonuser sources in an equitable manner. The department is responsible for the planning, development, regulation and improvement of transportation in Iowa. The mission of the department is “getting you there safely, efficiently and conveniently.”~~

ITEM 2. Amend rule 761—1.3(17A) as follows:

761—1.3(17A) Location and business hours. ~~The department’s main office of the department is located at 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1101. The department’s business hours are 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.~~

ITEM 3. Amend rule 761—1.4(17A) as follows:

761—1.4(17A) Information and forms. Information, applications and forms may be obtained from the department or from the division or office which is responsible for the area of concern. Specific instructions may also be given in administrative rules. The department’s Web site at www.iowadot.gov provides additional information about departmental organizational units, services and forms.

ITEM 4. Amend rule 761—1.6(17A,307,307A) as follows:

761—1.6(17A,307,307A) Commission. ~~A seven-member transportation commission approves the departmental budget, develops a comprehensive transportation policy and plan for the state, identifies transportation needs, and develops programs to meet these needs. Other commission approves the five-year transportation improvement program, and is responsible for other statutory duties and responsibilities are broadly stated listed in Iowa Code chapters 307 and 307A section 307A.2. Inquiries and requests may be submitted to the commission at the address given in rule 761—1.3(17A).~~

ITEM 5. Amend rule 761—1.7(17A,307) as follows:

761—1.7(17A,307) Director of transportation. The director of transportation is based in Ames and serves as the chief administrative officer of the department. The director is responsible for the management of the department and for statutory duties including but not limited to those listed in Iowa Code section 307.12. ~~The following units report to the director:~~

~~1.7(1) The deputy director.~~

~~1.7(2) The divisions described in rule 1.8(17A,307).~~

~~1.7(3) The bureau of policy and information, which identifies, analyzes and develops options for transportation policy issues, coordinates the department’s legislative program, and communicates transportation programs and information to the department and the public.~~

~~1.7(4) The bureau of transportation safety, which investigates methods of improving highway safety and administers risk management programs for the department.~~

~~1.7(5) The bureau of management, which provides management support, program evaluation and development, and administration of employee safety and environmental safety concerns.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 6. Rescind rule 761—1.8(17A,307) and adopt the following **new** rule in lieu thereof:

761—1.8(17A,307) Divisions. The department shall operate under the following divisions, which report to the director:

1.8(1) Highway division.

a. The highway division's headquarters are located in Ames; the telephone number is (515)239-1124.

b. The highway division manages the preservation and operation of the transportation system to ensure safe travel and is responsible for maintenance and construction of the interstate and primary highway systems. The division is responsible for preliminary engineering, environmental clearances and permits; design and plan development for roadways, structures and other transportation mode improvements; acquisition of right-of-way; letting and awarding of contracts; contract administration and material compliance for highway projects; statewide maintenance and emergency operations; research and higher level technology (such as intelligent transportation systems); and local systems support and oversight.

c. Responsibilities for highway division operations are divided among six districts. Each district has maintenance garages, maintenance offices and construction offices, which are listed in local telephone directories. The six district offices are as follows:

(1) District 1, 1020 S. Fourth Street, Ames, Iowa 50010; telephone (515)239-1635.

(2) District 2, 428 43rd Street SW, Mason City, Iowa 50401; telephone (641)423-7584.

(3) District 3, 2800 Gordon Drive, P.O. Box 987, Sioux City, Iowa 51102-0987; telephone (712)276-1451.

(4) District 4, 2210 E. Seventh Street, Atlantic, Iowa 50022; telephone (712)243-3355.

(5) District 5, 307 W. Briggs Avenue, P.O. Box 587, Fairfield, Iowa 52556-0587; telephone (641)472-4171.

(6) District 6, 5455 Kirkwood Boulevard SW, Cedar Rapids, Iowa 52404; telephone (319)364-0235.

1.8(2) Information technology division.

a. The information technology division is based in Ames; the telephone number is (515)239-1284.

b. The information technology division provides internal support services, automation support, and facilities and equipment support. The division assists internal and external customers in applying technology to meet the business needs of the department; collects, processes, and disseminates information throughout the department; monitors the constantly changing business and information environment; maximizes current investments in technology; implements new technologies and new directions; and coordinates information sharing.

1.8(3) Motor vehicle division.

a. The motor vehicle information center telephone number is 1-800-532-1121. The motor vehicle division's headquarters are located at 6310 SE Convenience Boulevard, Ankeny, Iowa; the telephone number is (515)244-8725. The mailing address is P.O. Box 9204, Des Moines, Iowa 50306-9204.

b. The motor vehicle division administers and enforces federal and state motor vehicle laws and regulations. The division issues driver's licenses and nonoperator's identification cards; suspends, revokes or disqualifies the driving privileges of drivers as required by state and federal law; lifts suspension or revocation of driving privileges when compliance is achieved; and administers the commercial driver, graduated driver, driver education, driver improvement, and motorcycle rider programs. The division administers the titling and registration of noncommercial motor vehicles and intrastate commercial motor vehicles; the production and issuance of license plates, including specialty and personalized license plates; and the issuance of parking permits for persons with disabilities. The division administers fuel tax and unified carrier registration for Iowa-based carriers that operate in interstate commerce and administers financial responsibility laws applicable to motor carriers. The division titles and registers vehicles which operate interstate and routes over-dimension vehicles on Iowa's primary and interstate highways. The division issues intrastate authority to for-hire carriers and trip permits for temporary travel in Iowa. The division enforces federal motor carrier safety standards

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and hazardous materials regulations and size, weight, authority, fuel, and registration laws. The division investigates title and odometer fraud, fraud in driver's license and vehicle title applications, and identity crimes and theft. The division performs salvage and vehicle theft examinations; regulates transportation network companies conducting business with the state; and regulates all dealer, manufacturer, wholesaler, recycler, and leasing licensing programs.

1.8(4) Operations and finance division.

a. The operations and finance division is based in Ames; the telephone number is (515)239-1340.

b. The operations and finance division provides internal support services for the department. The division is responsible for facilities management, procurement and distribution activities, equipment and supplies management, federal and state legislative coordination, and human resource management. The division administers the internal and external civil rights program and disadvantaged business enterprise program. The division provides financial management including budget development, monitoring and presentation of the budget to the commission and conducts external and motor carrier audits.

1.8(5) Performance and technology division.

a. The performance and technology division is based in Ames; the telephone number is (515)239-1124.

b. The performance and technology division provides services focused on analysis of department performance and management of transportation assets, facilitates the coordination and management of departmental research activities in collaboration with others, guides the process improvement and strategic planning initiatives, and provides media and marketing services including, but not limited to, media relations and development of marketing and communications plans.

1.8(6) Planning, programming and modal division.

a. The planning, programming and modal division is based in Ames; the telephone number is (515)239-1664.

b. The planning, programming and modal division develops both long- and short-range transportation system plans, the Iowa statewide transportation improvement program, and the department's five-year transportation improvement program; administers economic development and modal funding programs; manages the traffic count program; and develops city, county and state transportation maps. The division serves as an aviation, transit and rail advocate and as liaison to the Federal Aviation Administration, Federal Transit Administration and Federal Railroad Administration. The division delivers programs and services to promote a safe and efficient multimodal transportation system, promotes transportation on Iowa's navigable rivers, and represents Iowa's navigation interests with other state and federal agencies.

ITEM 7. Amend **761—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section sections 17A.3 and chapters 307 and 307A 307A.2 and chapter 307.

ITEM 8. Strike "Office of Policy and Legislative Services" wherever it appears in subrules **10.1(2)**, **11.5(3)**, and **12.2(2)** and insert "Operations and Finance Division" in lieu thereof.

ITEM 9. Amend subrule 11.8(2) as follows:

11.8(2) The ~~office of policy and legislative services~~ operations and finance division shall, at a minimum, retain for five years records relating to waivers granted or denied under this chapter.

ITEM 10. Amend subrule 112.1(5) as follows:

112.1(5) Waivers. The director of transportation may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition must contain the information as required in 761—subrule 11.5(2) and shall be submitted to the ~~Office of Policy and Legislative Services~~ Rules Administrator, Operations and Finance Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

ITEM 11. Amend subrule 115.1(5) as follows:

115.1(5) Waivers. The director of transportation may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition must contain

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the information as required in 761—subrule 11.5(2) and shall be submitted to the ~~Office of Policy and Legislative Services~~ Rules Administrator, Operations and Finance Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

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[Published 1/4/17]

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ARC 2887C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Iowa Department of Transportation, on December 14, 2016, adopted amendments to Chapter 400, "Vehicle Registration and Certificate of Title," and Chapter 410, "Special Mobile Equipment," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the October 26, 2016, Iowa Administrative Bulletin as **ARC 2780C**.

The amendment to subrule 400.58(1) corrects the maximum speed of a motorized bicycle from 30 miles per hour to 39 miles per hour. The change conforms with the speed limit included in the definition of "motorized bicycle" in Iowa Code section 321.1(40)"b."

The amendments to Chapter 410 correct the name of the Office of Vehicle and Motor Carrier Services and remove the word "Supplement" from citations to Iowa Code section 321E.12.

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

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

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

These amendments are intended to implement Iowa Code sections 321.1 and 321E.12.

These amendments will become effective February 8, 2017.

Rule-making actions:

ITEM 1. Amend subrule 400.58(1) as follows:

400.58(1) *Maximum speed.* If the department has reasonable cause to believe that a particular vehicle or model is capable of speeds exceeding ~~30~~ 39 miles per hour, the department may conduct independent tests to determine the maximum speed of the vehicle or model. If the department determines that the maximum speed of the particular vehicle or model exceeds ~~30~~ 39 miles per hour, the vehicle or model shall not be registered as a motorized bicycle.

ITEM 2. Amend subrule 410.1(3) as follows:

410.1(3) Questions regarding special mobile equipment may be directed by mail to the Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; or by telephone at (515)237-3264.

ITEM 3. Amend rule 761—410.2(321E), introductory paragraph, as follows:

761—410.2(321E) Special mobile equipment transported on a registered vehicle. The movement of special mobile equipment or component parts of special mobile equipment transported on a vehicle registered for the gross weight of the vehicle without load, as provided in Iowa Code ~~Supplement~~ section 321E.12, is subject to the following:

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ITEM 4. Amend rule **761—410.2(321E)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code ~~Supplement~~ section 321E.12.

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ARC 2888C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Iowa Department of Transportation, on December 14, 2016, adopted amendments to Chapter 605, "License Issuance," and Chapter 630, "Nonoperator's Identification," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the November 9, 2016, Iowa Administrative Bulletin as **ARC 2800C**.

The amendments make changes to comply with 2016 Iowa Acts, Senate File 2187, section 1, which amended Iowa Code section 321.189. The amendments:

- Streamline the process of obtaining a veteran designation on a driver's license or nonoperator's identification card and allow a licensee or cardholder to submit DD form 214 or Department Form 432035. For members of the national guard and reserve forces, the DD form 214 must indicate that the individual was honorably discharged after serving a minimum aggregate (total) of 90 days of active duty for purposes other than training. If the individual was a member of the national guard or reserve forces and has a discharge document other than a DD form 214, the individual must receive certification of veteran status from the Iowa Department of Veterans Affairs prior to applying to the Department for a license or nonoperator's identification card with a veteran designation.
- Provide that the Department may consult with and defer to the Iowa Department of Veterans Affairs regarding what constitutes a properly completed DD form 214 and veteran status in general.
- Provide for cancellation of the license or card based on error or fraud. The amendments also provide that a duplicate license or card may be issued without a veteran designation at no cost if the license or card was issued in error as long as the license or card was not issued as a result of fraud.
- Update the affected implementation sentences.

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

Changes were made from the Notice of Intended Action to eliminate unnecessary references to 2016 Iowa Acts, Senate File 2187. Items 2, 4 and 6 as published in the Notice of Intended Action are no longer needed and have been removed. Subsequent items have been renumbered accordingly.

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

These amendments are intended to implement Iowa Code section 321.189.

These amendments will become effective February 8, 2017.

Rule-making actions:

ITEM 1. Amend subrule 605.2(7) as follows:

605.2(7) Voluntary markings. Upon the request of the licensee, the department shall indicate on the driver's license any of the following:

- a. ~~the~~ The presence of a medical condition;
- b. ~~that~~ That the licensee is a donor under the uniform anatomical gift law;
- c. ~~that~~ That the licensee has in effect a medical advance directive;
- d. ~~that~~ That the licensee is hearing impaired or deaf;
- e. ~~that~~ That the licensee is a veteran.

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(1) To be eligible for a veteran designation, the licensee must be an honorably discharged veteran of the armed forces of the United States, the national guard or reserve forces. A licensee who requests a veteran designation shall submit Form 432035, properly completed by the licensee and a designee of the Iowa department of veterans affairs, or the licensee shall present certification of release or discharge from active duty, DD form 214, to the department indicating that the licensee was honorably discharged from active duty. A licensee who was a member of the national guard or reserve forces and who applies directly to the department must present a DD form 214 which indicates that the licensee was honorably discharged after serving for at least a minimum aggregate (total) of 90 days of active duty service for purposes other than training. A licensee who was a member of the national guard or reserve forces and who has a discharge document other than a DD form 214 must have the licensee's eligibility for a veteran designation determined by a designee of the Iowa department of veterans affairs and shall apply to the department for a veteran designation by submitting Form 432035, properly completed by the licensee and a designee of the Iowa department of veterans affairs.

(2) The department may consult with and defer to the Iowa department of veterans affairs regarding what constitutes a properly completed DD form 214 and veteran status in general.

(3) If the department denies issuance of a license with a veteran designation upon presentation of the DD form 214 to the department, the licensee may obtain a license with a veteran designation if the licensee submits Form 432035, properly completed by the licensee and a designee of the Iowa department of veterans affairs.

(4) If the department issues a veteran designation in error or as the result of fraud on the part of the licensee, the driver's license with a veteran designation shall be canceled, and a duplicate license without the designation may be issued to the licensee. There shall be no charge to issue a duplicate license if the license was issued in error, unless the error was the result of fraud on the part of the licensee.

ITEM 2. Amend paragraph **605.11(2)“j”** as follows:

j. Replacement to add a veteran designation to the license. To be eligible for a veteran designation, the licensee must be an honorably discharged veteran of the armed forces of the United States. A licensee who requests a veteran designation shall submit Form 432035, properly completed by the licensee and a designee of the Iowa department of veterans affairs. comply with the requirements of paragraph 605.2(7) “e.”

ITEM 3. Amend subrule 630.2(4) as follows:

630.2(4) Upon the request of the cardholder, the department shall indicate on the nonoperator's identification card any of the following:

- a.* ~~the~~ The presence of a medical condition;₂
- b.* ~~that~~ That the cardholder is a donor under the uniform anatomical gift law;₂
- c.* ~~that~~ That the cardholder has in effect a medical advance directive;₂
- d.* ~~that~~ That the cardholder is hearing impaired or deaf;₂ ~~or~~
- e.* ~~that~~ That the cardholder is a veteran.

(1) To be eligible for a veteran designation, the cardholder must be an honorably discharged veteran of the armed forces of the United States, the national guard or reserve forces. A cardholder who requests a veteran designation shall submit Form 432035, properly completed by the ~~licensee~~ cardholder and a designee of the Iowa department of veterans affairs, or the cardholder shall present certification of release or discharge from active duty, DD form 214, to the department indicating that the cardholder was honorably discharged from active duty. A cardholder who was a member of the national guard or reserve forces and who applies directly to the department must present a DD form 214 which indicates that the cardholder was honorably discharged after serving for at least a minimum aggregate (total) of 90 days of active duty service for purposes other than training. A cardholder who was a member of the national guard or reserve forces and who has a discharge document other than a DD form 214 must have the cardholder's eligibility for a veteran designation determined by a designee of the Iowa department of veterans affairs and shall apply to the department for a veteran designation by submitting Form 432035, properly completed by the cardholder and a designee of the Iowa department of veterans affairs.

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(2) The department may consult with and defer to the Iowa department of veterans affairs regarding what constitutes a properly completed DD form 214 and veteran status in general.

(3) If the department denies issuance of a nonoperator's identification card with a veteran designation upon presentation of the DD form 214 to the department, the cardholder may obtain a card with a veteran designation if the cardholder submits Form 432035, properly completed by the cardholder and a designee of the Iowa department of veterans affairs.

(4) If the department issues a veteran designation in error or as the result of fraud on the part of the cardholder, the nonoperator's identification card with a veteran designation shall be canceled, and a duplicate card without the designation may be issued to the cardholder. There shall be no charge to issue a duplicate card if the card was issued in error, unless the error was the result of fraud on the part of the cardholder.

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