



# 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]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

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

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### CITATION of Administrative Rules

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

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

|                          |                      |
|--------------------------|----------------------|
| 441 IAC 79               | (Chapter)            |
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The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

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

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

## Schedule for Rule Making 2022

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

### PRINTING SCHEDULE FOR IAB

| <u>ISSUE NUMBER</u> | <u>SUBMISSION DEADLINE</u> | <u>ISSUE DATE</u> |
|---------------------|----------------------------|-------------------|
| 16                  | Friday, January 21, 2022   | February 9, 2022  |
| 17                  | Friday, February 4, 2022   | February 23, 2022 |
| 18                  | Friday, February 18, 2022  | March 9, 2022     |

**PLEASE NOTE:**

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

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

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

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

**EDUCATIONAL EXAMINERS BOARD[282]**

Teachers and administrators—licensure, endorsements, 13.5, 13.9, 13.11(1), 13.28, 18.6(1)“d”  
IAB 1/12/22 **ARC 6133C**

Board Room  
701 E. Court Ave., Suite A  
Des Moines, Iowa

February 1, 2022  
11 a.m. to 12 noon  
(If requested)

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Air quality—electronic submittal, 20.2, 21.1(3), 22.1(3), 22.105, 22.128(4)  
IAB 1/12/22 **ARC 6144C**

Via video/conference call  
Contact Christine Paulson  
Email: [christine.paulson@dnr.iowa.gov](mailto:christine.paulson@dnr.iowa.gov)

February 14, 2022  
1 to 2 p.m.

**IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]**

Contribution rates; coverage for employees of Regents institutions; suspected fraud in disability claims; final distribution to heirs who have filed claims; successor alternate payees; qualified domestic relations orders, amendments to chs 4, 5, 13, 14, 16  
IAB 12/29/21 **ARC 6117C**

IPERS  
7401 Register Dr.  
Des Moines, Iowa  
Online at:  
[teams.microsoft.com/l/meetup-join](https://teams.microsoft.com/l/meetup-join)

January 24, 2022  
10 to 11 a.m.

**NATURAL RESOURCE COMMISSION[571]**

Hunting preserves—definitions of “game birds” and “ungulate,” 112.1  
IAB 1/12/22 **ARC 6143C**

Via video/conference call  
Contact Karmin Klingenberg  
Email: [karmin.klingenberg@dnr.iowa.gov](mailto:karmin.klingenberg@dnr.iowa.gov)

February 2, 2022  
1:30 p.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Marital and family therapists, mental health counselors, behavior analysts, assistant behavior analysts, and social workers—supervision, 31.2, 31.5, 31.7, 280.6,  
IAB 1/12/22 **ARC 6142C**

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

February 1, 2022  
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**TRANSPORTATION DEPARTMENT[761]**

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Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

January 20, 2022  
10 a.m.  
(If requested)

Emergency vehicle certificate, amendments to ch 451  
IAB 1/12/22 **ARC 6141C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

February 3, 2022  
10 a.m.  
(If requested)

The following list will be updated as changes occur.

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

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

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

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## ARC 6138C

## ALCOHOLIC BEVERAGES DIVISION[185]

## Notice of Intended Action

**Proposing rule making related to liquor, beer and wine  
and providing an opportunity for public comment**

The Alcoholic Beverages Division hereby proposes to amend Chapter 4, “Liquor Licenses—Beer Permits—Wine Permits,” and Chapter 5, “License and Permit Division,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 123.10, 123.49, 123.131 and 123.178 to 123.178B.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 123.49, 123.131 and 123.178 to 123.178B and 2021 Iowa Acts, House File 384.

*Purpose and Summary*

This proposed rule making implements changes required due to the enactment of 2021 Iowa Acts, House File 384. Specifically, the rule making proposes the following to conform with statutory changes:

- Amend rule 185—4.5(123) to allow mixed drinks or cocktails not for immediate consumption to be used to prepare mixed drinks or cocktails to go.
- Amend rule 185—4.6(123) to allow delivery of growlers of beer.
- Amend rule 185—4.10(123) to remove the prohibition of the use of disposable plastic, paper, or Styrofoam cups; remove the prohibition of the use of lids with sipping or straw holes; and allow the use of two new sealing methods.
- Amend rule 185—4.11(123) to allow delivery of growlers of wine.
- Rescind rule 185—4.33(123) because it is outdated and redundant with statute.
- Rescind rule 185—4.38(123) because it is outdated and redundant with statute.
- Amend rule 185—5.1(123) to update the allowable hours of sale on Sundays.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on February 1, 2022. Comments should be directed to:



## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

Tyler Ackerson  
Iowa Alcoholic Beverages Division  
1918 SE Hulsizer Road  
Ankeny, Iowa 50021  
Email: [rules@iowaabd.com](mailto:rules@iowaabd.com)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 185—4.5(123) as follows:

**185—4.5(123) Mixed drinks or cocktails not for immediate consumption.** ~~An on-premises A class “A,” class “B,” class “C,” class “C” native distilled spirits, or class “D” liquor control licensee may mix, and store, and allow the consumption of mixed drinks or cocktails which are not for immediate consumption for up to 72 hours, subject to the requirements and restrictions provided in 2012 Iowa Acts, House File 2465, section 22, Iowa Code section 123.49(2) “d” and this rule.~~

**4.5(1) Definitions.**

~~“Immediate consumption.” For the purposes of Iowa Code section 123.49(2) “d” as amended by 2012 Iowa Acts, House File 2465, section 22, and this rule, “immediate consumption” is defined as means the compounding and fulfillment of a mixed drink or cocktail order upon receipt of the order for the mixed drink or cocktail.~~

~~“Mixed drink or cocktail.” A mixed drink or cocktail is a beverage composed in whole or in part of alcoholic liquors, combined with other alcoholic beverages or nonalcoholic beverages or ingredients including but not limited to ice, water, soft drinks, or flavorings means “mixed drink or cocktail” as defined in Iowa Code section 123.3(32).~~

~~**4.5(2) Location.** Mixed drinks or cocktails which are not for immediate consumption shall be mixed, and stored, and consumed on the liquor control licensed premises. Mixed drinks or cocktails shall not be removed from the licensed premises.~~

**4.5(3) No change.**

**4.5(4) Container.** A mixed drink or cocktail which is not for immediate consumption shall at all times be in a container compliant with applicable state and federal food safety statutes and regulations.

*a. to c.* No change.

*d.* An original package of alcoholic liquor as purchased from the division or an original package of wine shall not be used to mix, store, or dispense a mixed drink or cocktail, pursuant to Iowa Code section 123.49(2) “d” ~~as amended by 2012 Iowa Acts, House File 2465, section 22, and section 123.49(2) “e.” and “e.”~~

*e.* No change.

**4.5(5) Label.** A label shall be placed on a container when the contents of the mixed drink or cocktail are placed into the empty container.

*a.* ~~Contents are defined in subrule 4.5(6).~~

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~b.~~ *a.* The label shall be subject to the following requirements and restrictions:

(1) to (4) No change.

(5) The label shall legibly identify the time the contents expire. The time shall be reported in the same manner as reported in subparagraph 4.5(5)“b”(4) 4.5(5)“a”(3).

(6) to (10) No change.

(11) A new label, subject to the requirements and restrictions of paragraph 4.5(5)“b,” 4.5(5)“a,” shall be placed on the container for each prepared batch of mixed drinks or cocktails which is not for immediate consumption.

~~e.~~ *b.* A licensee may access a label template on the website of the division located at www.IowaABD.com ~~abd.iowa.gov~~.

**4.5(6)** No change.

**4.5(7)** *Disposal.*

*a.* Any mixed drink or cocktail, or portion thereof, not consumed within 72 hours of ~~the contents~~<sup>2</sup> being placed into the empty container is expired and shall be destroyed and disposed of in accordance with applicable law.

*b.* No change.

**4.5(8)** *Records.* A licensee shall maintain accurate and legible records for each prepared batch of mixed drinks or cocktails which is not for immediate consumption.

*a.* Records shall contain:

(1) The month, day, and year the contents ~~are~~ were placed into the empty container.

(2) The time the contents ~~are~~ were placed into the empty container. The time shall be reported in the same manner as reported in subparagraph 4.5(5)“b”(4) 4.5(5)“a”(3).

(3) to (7) No change.

(8) The month, day, and year the contents of the container ~~are~~ were destroyed and disposed of or entirely consumed.

(9) The time the contents of the container ~~are~~ were destroyed and disposed of or entirely consumed. The time shall be reported in the same manner as reported in subparagraph 4.5(5)“b”(4) 4.5(5)“a”(3).

(10) The method of destruction and disposal or ~~shall specify~~ that the entire contents were consumed.

(11) No change.

*b.* A licensee may access record-keeping forms on the website of the division located at www.IowaABD.com, ~~by sending a request by fax to (515)281-7375,~~ abd.iowa.gov or by sending a request by mail to Alcoholic Beverages Division, 1918 SE Hulsizer Road, Ankeny, Iowa 50021.

*c.* No change.

**4.5(9)** *Dispensing machines.* A dispensing machine which contains a mixed drink or cocktail ~~with alcoholic beverages~~ is subject to the requirements and restrictions of this rule.

**4.5(10)** *Food safety compliance.* A licensee who mixes, ~~and stores, and allows the consumption of~~ mixed drinks or cocktails which are not for immediate consumption shall comply with all applicable state and federal food safety statutes and regulations.

**4.5(11)** *Federal alcohol compliance.* A licensee who mixes, ~~and stores, and allows the consumption of~~ mixed drinks or cocktails which are not for immediate consumption shall comply with all applicable federal statutes and regulations. Prohibitions include but are not limited to processing with non-tax-paid alcoholic liquor, aging alcoholic liquor in barrels, heating alcoholic liquor, bottling alcoholic liquor, and refilling alcoholic liquor or wine bottles.

**4.5(12)** No change.

This rule is intended to implement Iowa Code ~~subsection~~ section 123.49(2) ~~as amended by 2012 Iowa Acts, House File 2465, section 22.~~

ITEM 2. Amend rule 185—4.6(123), introductory paragraph, as follows:

**185—4.6(123) Filling and selling of beer in a container other than the original container.** Class “B,” class “C,” and special class “C” liquor control licensees;<sup>2</sup> class “B” and class “C” beer permittees;<sup>2</sup> and the licensee’s or permittee’s employees may fill, refill, and sell beer in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

Code section sections 123.131 as amended by 2020 Iowa Acts, House File 2540, section 14; Iowa Code section and 123.132; and this rule.

ITEM 3. Amend paragraph 4.6(4)“b” as follows:

b. A growler filled pursuant to this rule shall not be delivered or direct-shipped to a consumer.

ITEM 4. Amend rule 185—4.10(123) as follows:

**185—4.10(123) Filling and selling of mixed drinks or cocktails in a container other than the original container.** Class “C” and class “C” native distilled spirits liquor control licensees and the licensee’s employees may fill and sell mixed drinks or cocktails in a container other than the original container subject to the requirements and restrictions provided in 2020 Iowa Acts, House File 2540, sections 10, 11, 12, and 13, Iowa Code section 123.49(2) “d”(3) and this rule.

**4.10(1) Definitions.**

“Alcoholic liquor,” for the purposes of this rule, means “alcoholic liquor” as defined in Iowa Code section 123.3(5).

“Mixed drink or cocktail,” for the purposes of this rule, means “mixed drink or cocktail” as defined in Iowa Code section 123.3(32).

“Native distilled spirits,” for the purposes of this rule, means “native distilled spirits” as defined in Iowa Code section 123.3(34).

“Original container,” for the purposes of this rule, means a vessel containing alcoholic liquor or native distilled spirits that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

“Sealed container,” for the purposes of this rule, means a vessel containing a mixed drink or cocktail that is designed to prevent consumption without removal of the tamper-evident lid, cap, or seal. “Sealed container” does not include a container with a lid with sipping holes or openings for straws, a cup made of plastic that is intended for one-time use, or a cup made of paper or polystyrene foam “sealed container” as defined in Iowa Code section 123.49(2) “d”(4)(a).

“Tamper-evident,” for the purposes of this rule, means a lid, cap, or seal that visibly demonstrates when a container has been opened “tamper-evident” as defined in Iowa Code section 123.49(2) “d”(4)(b).

**4.10(2) Filling requirements.**

a. and b. No change.

c. A sealed container shall be filled only with mixed drinks or cocktails composed in whole or in part with alcoholic liquor or native distilled spirits from an original container purchased from a class “E” liquor licensee.

d. No change.

**4.10(3) Sealing requirements.** A sealed container shall bear one of the following tamper-evident sealing methods:

a. A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the container vessel is opened.

b. A screw top cap or lid that breaks apart when the container vessel is opened.

c. A vacuum or heat-sealed pouch containing the mixed drink or cocktail.

d. A lid permanently affixed to the vessel with a can seamer.

e. The vessel containing the mixed drink or cocktail is securely sealed inside a clear, transparent bag bearing a self-adhesive strip or other seal that must be broken open to remove the vessel and cannot be resealed. If the lid of the vessel bears a sipping hole or other opening for a straw, the sealing method described in this paragraph shall be the only sealing method allowed.

**4.10(4) and 4.10(5)** No change.

**4.10(6) Restrictions.**

a. A sealed container shall not be filled in advance of a sale.

b. ~~A sealed container shall not meet the definition of “canned cocktail” as defined in Iowa Code section 123.3(11).~~

e. b. A licensee or a licensee’s employees shall not allow a consumer to fill a sealed container.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~d. c.~~ The filling and selling of a sealed container shall be limited to the hours in which alcoholic beverages may be legally sold.

~~e. d.~~ A sealed container shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

**4.10(7)** and **4.10(8)** No change.

This rule is intended to implement Iowa Code sections 123.30, 123.43A, and 123.49.

ITEM 5. Amend rule 185—4.11(123), introductory paragraph, as follows:

**185—4.11(123) Filling and selling of wine and native wine in a container other than the original container.** Class “C” liquor control licensees; class “B,” class “B” native, and class “C” native wine permittees; and the licensee’s or permittee’s employees may fill, refill, and sell wine or native wine in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code sections 123.178, 123.178A, and 123.178B ~~as amended by 2020 Iowa Acts, House File 2540, sections 4, 5, 6, 7, 8, and 9,~~ and in this rule.

ITEM 6. Amend paragraph **4.11(4)“b”** as follows:

*b.* A growler filled pursuant to this rule shall not be ~~delivered or~~ direct-shipped to a consumer.

ITEM 7. Rescind and reserve rule **185—4.33(123)**.

ITEM 8. Rescind and reserve rule **185—4.38(123)**.

ITEM 9. Amend subrule 5.1(7) as follows:

**5.1(7) Hours of sale.** A manufacturer of native wine ~~can~~ may sell its native wine in its native winery and in its retail establishments ~~on Mondays through Saturdays by the bottle for consumption off the native winery or retail establishment premises between the hours of 9 a.m. and 10 p.m. and on Sundays between the hours of 10 a.m. and 12 midnight~~ 2 a.m.

**ARC 6145C**

**ATTORNEY GENERAL[61]**

**Notice of Intended Action**

**Proposing rule making related to assurance of voluntary compliance and providing an opportunity for public comment**

The Attorney General hereby proposes to adopt new Chapter 38, “Assurance of Voluntary Compliance,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 714.16.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 714.16(7).

*Purpose and Summary*

The purpose of this proposed new rule is to facilitate the resolution of investigations of violations of the Iowa Consumer Fraud Act (the Act), Iowa Code section 714.16, without instituting a civil action or proceeding pursuant to Iowa Code section 714.16(7). The new rule formalizes the practice of accepting an Assurance of Voluntary Compliance from the target of an investigation in lieu of filing a civil action and consent judgment. The new rule further states that all remedies available under the Act may be agreed to as part of an assurance, that entering into an assurance shall not be considered an admission of a violation of the Act, and that violation of an assurance shall be treated as a violation of Iowa Code section 714.16.

ATTORNEY GENERAL[61](cont'd)

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Attorney General for a waiver of the discretionary provisions, if any.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Office of the Attorney General no later than 4:30 p.m. on February 1, 2022. Comments should be directed to:

William Pearson  
Office of the Attorney General of Iowa  
Hoover State Office Building  
1305 East Walnut Street  
Des Moines, Iowa 50319-0106  
Email: [william.pearson@ag.iowa.gov](mailto:william.pearson@ag.iowa.gov)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Adopt the following **new** 61—Chapter 38:

CHAPTER 38  
ASSURANCE OF VOLUNTARY COMPLIANCE

**61—38.1(714) Assurance of voluntary compliance.** In any case where the attorney general has authority to institute a civil action or proceeding pursuant to Iowa Code section 714.16(7), in lieu thereof, the attorney general may accept an assurance of voluntary compliance with respect to any method, act or practice deemed to be in violation of the Iowa consumer fraud Act from any person who has engaged in, is engaging in, or was about to engage in such method, act or practice. Such assurance may, among other terms, include a stipulation for the voluntary payment by such person of the costs of investigation, the voluntary payment of a civil penalty, or an amount to be held in escrow pending the

ATTORNEY GENERAL[61](cont'd)

outcome of an action or as restitution to aggrieved consumers, or both. Matters thus closed may at any time be reopened by the attorney general for further proceedings in the public interest.

An assurance entered into pursuant to this rule shall not be considered an admission of a violation, provided that violation of such an assurance shall be treated as a violation of Iowa Code section 714.16, and shall be subjected to all the penalties and remedies provided therefor. A finding by a court that a violation of such assurance of voluntary compliance has occurred shall establish a prima facie case that the person subject thereto knows, or in the exercise of due care should know, that the person has in the past violated or is intentionally violating the provisions of this chapter.

This rule is intended to implement Iowa Code section 714.16(7).

## ARC 6139C

### ECONOMIC DEVELOPMENT AUTHORITY[261]

#### Notice of Intended Action

#### **Proposing rule making related to Iowa community development block grant program and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 23, "Iowa Community Development Block Grant Program," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 15.106A.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15.108.

#### *Purpose and Summary*

The Authority administers the federal Community Development Block Grant (CDBG) program in all of Iowa's incorporated cities and counties, except those designated as U.S. Department of Housing and Urban Development (HUD) entitlement areas. Authorized under the Housing and Community Development Act, the main goal of the CDBG program is to "develop viable communities by providing decent housing and suitable living environments and expanding economic opportunities, principally for persons of low and moderate incomes." All projects must meet the national objectives as defined by HUD.

The proposed amendments update the rules to be consistent with current administration of the CDBG program and remove references to specific funds associated with the program. The changes also accommodate a HUD recommendation to minimize administrative rules for the program in order to avoid conflict with HUD regulations and policies. State program policies are required to be outlined in the State's annual action plan submitted to HUD. The plan is updated annually in conjunction with a public input process.

#### *Fiscal Impact*

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

#### *Jobs Impact*

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

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on February 1, 2022. Comments should be directed to:

Lisa Connell  
Iowa Economic Development Authority  
1963 Bell Avenue, Suite 200  
Des Moines, Iowa 50315  
Phone: 515.348.6163  
Email: [lisa.connell@iowaeda.com](mailto:lisa.connell@iowaeda.com)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 261—23.2(15) as follows:

**261—23.2(15) Definitions.** When used in this chapter, unless the context otherwise requires:

~~“Activity” means one or more specific activities, projects or programs assisted with CDBG funds.~~

~~“Adaptive reuse” means conversion of an existing building or structure from nonresidential use to residential use.~~

~~“Annual action plan” means the annual plan required and approved by the U.S. Department of Housing and Urban Development that outlines the state’s processes and procedures for distribution of CDBG funds. The annual action plan is an annual update to the state’s CDBG consolidated plan. The federal requirements for an annual action plan can be found at [http://www.hud.gov/offices/cpd/about/conplan/toolsandguidance/guidance/state\\_guidelines.pdf](http://www.hud.gov/offices/cpd/about/conplan/toolsandguidance/guidance/state_guidelines.pdf). The annual action plan can be found is available on the authority’s CDBG Web site website.~~

~~“Annual allocation” means the annual amount HUD allocates to the state of Iowa for CDBG activities.~~

~~“Authority” means the economic development authority created in Iowa Code section 15.105.~~

~~“Authority’s website” means the information and related content found at [www.iowaeda.com](http://www.iowaeda.com) and may include integrated content at affiliate sites.~~

~~“Career link” means a program providing training and enhanced employment opportunities to low- and moderate-income persons.~~

~~“CDBG” means community development block grant.~~

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*"Citizen participation plan"* means the plan required and approved by the U.S. Department of Housing and Urban Development that describes the state's process for including citizen participation in development of its consolidated plan and annual action plan. The citizen participation plan is available on the authority's ~~CDBG Web site~~ website.

*"Consolidated plan"* means the five-year plan required and approved by the U.S. Department of Housing and Urban Development that establishes goals and objectives for the state's CDBG program. The consolidated plan is available on the authority's ~~CDBG Web site~~ website.

~~"EDSA" means economic development set-aside.~~

*"HUD"* means the U.S. Department of Housing and Urban Development.

~~"LMI" means low and moderate income. Households earning 80 percent or less of the area median income are LMI households.~~

~~"PFSA" means public facilities set-aside.~~

~~"Program income" means gross income a recipient receives that is directly generated by the use of CDBG funds, including funds generated by the use of program income.~~

*"Management guide"* means the administrative reference manual published by the authority for each program year. The management guide is available on the authority's website.

*"Program year"* means the annual period beginning January 1 and ending December 31.

*"Recipient"* means a local government entity awarded CDBG funds under any CDBG program.

*"Subrecipient"* means a public or nonprofit entity contracting with and receiving funds from a recipient to carry out CDBG project activities.

~~"Sustainable community activities" means activities to develop viable communities while preserving precious environment and resources.~~

ITEM 2. Amend rule 261—23.3(15) as follows:

**261—23.3(15) Annual action plan.** The authority will prepare a CDBG annual action plan for submittal to and approval by HUD. The plan will provide a description of the activities and programs that will take place during the year to meet goals established in the consolidated plan.

**23.3(1)** ~~The annual action plan will contain the following:~~

~~a. Executive summary.~~

~~b. Sources of federal and state funds.~~

~~c. Statement of specific annual objectives.~~

~~d. Outcome measures.~~

~~e. Method of distribution of funds.~~

~~f. Allocation priorities and geographic distribution.~~

~~g. Annual affordable housing goals.~~

~~h. Homeless and other special needs.~~

~~i. Other actions to meet underserved community development needs.~~

~~j. Citizen participation in development of the plan.~~

~~k. Certifications required by 24 CFR 91.325 as revised December 5, 2011.~~

~~l. Monitoring efforts to ensure compliance.~~

**23.3(2) 23.3(1)** The authority will follow the state's citizen participation plan during the development of the annual action plan. A draft annual action plan will be available on the authority's ~~CDBG Web site~~ website for 30 days for public review and comment. The authority will hold a public hearing during the comment period to collect public input on the plan prior to its submittal to HUD.

**23.3(3) 23.3(2)** The annual action plan will be submitted to HUD by November 15 of each year or 60 days after HUD announces the annual allocation amount. Upon review and approval by HUD, the annual action plan will cover activities from January 1 to December 31 of the year following plan submittal to HUD.

**23.3(4) 23.3(3)** The annual action plan will include the proposed CDBG program funding allocation, ~~including the percentage of funds allocated for each of the CDBG programs and activities listed in rule 261—23.4(15).~~



## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 3. Amend rule 261—23.4(15) as follows:

**261—23.4(15) Allocation of funds and eligible applicants.** Upon approval by HUD, the authority will annually allocate CDBG funds among programs or activities described in the state's most recent annual action plan, which may include, but not be limited to, the following:

~~23.4(1) Allocation of funds.~~ Upon approval by HUD, the authority will annually allocate CDBG funds among programs or activities according to the annual action plan as follows:

~~a. Administration.~~

~~b. Technical assistance.~~

~~c. Housing fund.~~

~~d. Job creation, retention and employment enhancement fund. Job creation, retention and employment enhancement funds are awarded through three programs: the economic development set-aside (EDSA), the public facilities set-aside (PFSA), and career link.~~

~~e. Water and sewer fund.~~

~~f. Community facilities fund.~~

~~g. Opportunities and threats fund.~~

~~23.4(2) Eligible applicants.~~ All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development, are eligible to apply for and receive funds under the CDBG program. Applicants shall not apply on behalf of eligible applicants other than themselves.

~~23.4(3) Application with subrecipients.~~ Any eligible applicant may apply directly or on behalf of a subrecipient.

~~23.4(4) Joint applications.~~ Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

~~23.4(5) Reallocation.~~ Any reserved funds not used for their specified purpose within the program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to community or business needs.

~~23.4(6) Recaptured funds.~~ Recaptured funds shall be available for use through the water and sewer fund, the community facilities fund, the opportunities and threats fund, the housing fund, the downtown revitalization fund, and the economic development set-aside fund. As approved by the director, recaptured funds may be used to fund projects from the job creation, retention and employment enhancement fund in order to respond to an immediate business need if no funds are available through the economic development set-aside fund or public facilities set-aside fund. Recaptured funds remaining at the end of a program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to a community or business need.

1. Housing assistance.

2. Job training and employment-related transportation services.

3. Water and sewer improvements.

4. Community facilities improvements.

5. Opportunities and threats fund.

6. Business or microenterprise assistance.

7. Neighborhood revitalization activities.

ITEM 4. Amend rule 261—23.5(15) as follows:

**261—23.5(15) Common requirements Requirements for funding.** Applications for funds under any of the program-allocated funds pursuant to rule 261—23.4(15) shall meet the following minimum criteria: described in subrules 23.5(1) through 23.5(3).

**23.5(1)** Proposed activities shall be eligible, as authorized by Title I, Section 105 of the Housing and Community Development Act of 1974, as amended, and as further defined in 24 CFR Part 570, as revised April 1, 1997.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**23.5(2)** Proposed activities shall address at least one of the following three objectives:

*a.* Primarily benefit low- and moderate-income persons. To address this objective, 51 percent or more persons benefiting from a proposed activity must have incomes at or below 80 percent of the area median income.

*b.* Aid in the prevention or elimination of slums and blight. To address this objective, the application must document the extent or seriousness of deterioration in the area to be assisted, showing a clear adverse effect on the well-being of the area or community and illustrating that the proposed activity will alleviate or eliminate the conditions causing the deterioration.

*c.* Meet an urgent community development need. To address this objective, the applicant must certify that the proposed activity is designed to alleviate existing conditions that pose a serious and immediate threat to the health or welfare of the community and that are recent in origin or that recently became urgent; that the applicant is unable to finance the activity without CDBG assistance and that other sources of funding are not available. ~~A condition shall be considered recent if it developed or became urgent within 18 months prior to submission of the application for CDBG funds.~~

~~**23.5(3)** Applicants shall demonstrate capacity for grant administration. Administrative capacity shall be evidenced by previous satisfactory grant administration, availability of qualified personnel or plans to contract for administrative services. Funds used for administration shall not exceed 10 percent of the CDBG award amount or 10 percent of the total contract amount, except for awards made under the career link program, for which funds used for administration shall not exceed 5 percent of the CDBG award amount.~~

~~**23.5(4)** Applicants who have received previous CDBG awards shall have demonstrated acceptable past performance, including the timely expenditure of funds.~~

~~**23.5(5)** Applications shall demonstrate the feasibility of completing the proposed activities with the funds requested.~~

~~**23.5(6)** To the greatest extent feasible, applications shall propose the use of CDBG funds as gap financing. Applications shall identify and describe any other sources of funding for proposed activities.~~

~~**23.5(7)** Applications shall include a community development and housing needs assessment.~~

~~**23.5(8)** Negotiation of awards. The authority may negotiate award amounts, terms and conditions prior to making any award under any program.~~

~~**23.5(9)**~~ **23.5(3)** Applicants shall certify their compliance with federal requirements applicable to the CDBG program including, but not limited to, the following:

*a.* to *u.* No change.

ITEM 5. Rescind rule 261—23.6(15) and adopt the following new rule in lieu thereof:

**261—23.6(15) Award and administration.** The authority may negotiate award amounts, terms and conditions prior to making any award under the program. Recipients shall comply with requirements and instructions set forth in the applicable CDBG management guide.

ITEM 6. Rescind and reserve rules **261—23.7(15)** to **261—23.11(15)**.

ITEM 7. Rescind and reserve rules **261—23.14(15)** to **261—23.17(15)**.

**ARC 6140C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Notice of Intended Action**

**Proposing rule making related to angel investor tax credits  
and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 115, “Tax Credits for Investments in Qualifying Businesses and Community-Based Seed Capital Funds,” Iowa Administrative Code.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 15.106A and 15E.43.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 15E.43 and 15E.44.

*Purpose and Summary*

Tax credits for investments in qualifying businesses and community-based seed capital funds, also known as angel investor tax credits, are administered by the Authority pursuant to Iowa Code chapter 15E, subchapter V. A taxpayer may receive a tax credit of 25 percent of the taxpayer's equity investment in Iowa businesses that meet criteria established in Iowa Code section 15E.44.

This proposed rule making clarifies the processes for businesses and investors to participate in the program and eliminates references to provisions related to community-based seed capital funds that were repealed in 2015. The amendments would set a cut-off date for the waitlist maintained by the Authority for applications received in excess of the \$2 million-per-year aggregate allocation for the program. Only applications received on or before March 31, 2022, would be placed on a waitlist. After that date, applicants may submit applications only during designated periods established by the Authority for fiscal years in which tax credits are available. The amendments also address applications received in excess of calendar year caps for investments in one qualifying business or by a natural person and that person's spouse or dependents.

*Fiscal Impact*

A fiscal impact cannot be determined. It is unknown what impact eliminating the waitlist will have on utilization of the program.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on February 1, 2022. Comments should be directed to:

Lisa Connell  
Iowa Economic Development Authority  
1963 Bell Avenue, Suite 200  
Des Moines, Iowa 50315  
Phone: 515.348.6163  
Email: [lisa.connell@iowaeda.com](mailto:lisa.connell@iowaeda.com)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend **261—Chapter 115**, title, as follows:

**TAX CREDITS FOR INVESTMENTS IN QUALIFYING BUSINESSES AND  
COMMUNITY-BASED SEED CAPITAL FUNDS**

ITEM 2. Amend rule 261—115.1(15E) as follows:

**261—115.1(15E) Tax credits for investments in qualifying businesses and community-based seed capital funds.** Tax credits for investments in qualifying businesses and community-based seed capital funds may be claimed as provided in this rule and any applicable rules of the department of revenue.

**115.1(1) Tax credits allowed only after a certain date.** A taxpayer may claim a tax credit under this rule for equity investments in certain qualifying businesses or community-based seed capital funds. Only equity investments made on or after January 1, 2011, qualify for a tax credit under this rule. Equity investments made before that date must be claimed under 123—Chapter 2.

**115.1(2)** No change.

~~**115.1(3) Investments in community-based seed capital funds.**~~

~~a.—A taxpayer may claim a tax credit under this subrule for a portion of the taxpayer's equity investment in a community-based seed capital fund if that investment was made on or after January 1, 2011.~~

~~b.—The tax credit may be claimed against the taxpayer's tax liability for any of the following taxes:~~

~~(1) The personal net income tax imposed under Iowa Code chapter 422, division II.~~

~~(2) The business tax on corporations imposed under Iowa Code chapter 422, division III.~~

~~(3) The franchise tax on financial institutions imposed under Iowa Code chapter 422, division V.~~

~~(4) The tax on gross premiums of insurance companies imposed under Iowa Code chapter 432.~~

~~(5) The tax on moneys and credits imposed under Iowa Code section 533.329.~~

~~c.—Investments made in community-based seed capital funds on or after January 1, 2011, and before July 2, 2015, are governed by 2015 Iowa Code sections 15E.41 to 15E.46, 422.11F, 422.33, 422.60, 432.12C, and 533.329.~~

~~d.—Investments made in community-based seed capital funds on or after July 2, 2015, are not eligible for tax credits. See 2015 Iowa Acts, Senate File 510, sections 107 to 128, which include the repeal of Iowa Code section 15E.45 and other provisions related to the administration of community-based seed capital funds.~~

~~**115.1(4) 115.1(3) Amount of tax credit that may be claimed by taxpayer.**~~

~~a. In the case of investments made on or after July 1, 2011, and before July 2, 2015, the amount of tax credit available to a taxpayer under this rule is equal to 20 percent of the taxpayer's equity investment in either a qualifying business or community-based seed capital fund. In the case of investments made on or after July 2, 2015, the amount of tax credit available to a taxpayer under this rule is equal to 25 percent of the taxpayer's equity investment in a qualifying business.~~

~~b. In the case of investments made on or after July 1, 2011, and before July 2, 2015, the maximum amount of a tax credit for an investment by an investor in any one qualifying business shall be \$50,000. Each year, an investor, and all affiliates of that investor, shall not claim tax credits under this rule for more than five different investments in five different qualifying businesses. In the case of investments made on~~

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

or after July 2, 2015, the maximum amount of tax credit that may be issued per calendar year to a natural person and the person's spouse or dependent shall not exceed \$100,000 combined. For purposes of this paragraph, a tax credit issued to a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual shall be deemed to be issued to the individual owners based upon the pro rata share of the individual's earnings from the entity. For purposes of this paragraph, "dependent" has the same meaning as provided by the Internal Revenue Code. Applications received by the authority that exceed the maximum amount of tax credits per calendar year to a natural person and the person's spouse or dependent will be denied by the board, regardless of whether the investment was otherwise eligible to receive a tax credit award. Any application that can be partially approved without exceeding the maximum amount in this paragraph will be approved as to the portion less than the maximum amount and denied as to the portion greater than the maximum amount. For example, if an application is eligible for \$50,000 of tax credits, but there is only \$30,000 of the household maximum amount available, the application will be approved for \$30,000 and denied for \$20,000.

~~e.~~—Investments in community-based seed capital funds.

~~(1) An investor in a community-based seed capital fund shall receive a tax credit pursuant to this rule only for the investor's investment in the community-based seed capital fund and shall not receive any additional tax credit for the investor's share of investments in a qualifying business made by the community-based seed capital fund or in an Iowa-based seed capital fund which has at least 40 percent of its committed capital subscribed by community-based seed capital funds. However, an investor in a community-based seed capital fund may receive a tax credit under this rule with respect to a separate direct investment made by the investor in the same qualifying business in which the community-based seed capital fund invests.~~

~~(2) Paragraph "c" only applies to investments in community-based seed capital funds made on or after July 1, 2011, and before July 2, 2015.~~

~~d. c.~~ The maximum amount of tax credits that may be issued per calendar year for equity investments in any one qualifying business shall not exceed \$500,000. Applications received by the authority that exceed the maximum amount of tax credits per calendar year in any one qualifying business will be denied by the board, regardless of whether the investment was otherwise eligible to receive a tax credit award. Any application that can be partially approved without exceeding the maximum amount in this paragraph will be approved as to the portion less than the maximum amount and denied as to the portion greater than the maximum amount. For example, if an application is eligible for \$50,000 of tax credits, but there is only \$30,000 of the business maximum amount available, the application will be approved for \$30,000 and denied for \$20,000.

~~115.1(5)~~ 115.1(4) *Claiming an investment tax credit.* A taxpayer that makes an investment in a qualifying business ~~or community-based seed capital fund~~ and that otherwise meets the requirements of this chapter will receive a board-approved tax credit certificate from the authority. To claim the credit, the taxpayer must ~~attach~~ include the certificate ~~to~~ with a tax return filed with the department of revenue. For more information on claiming the tax credit, see department of revenue ~~rule~~ rules 701—42.22(15E,422), 701—52.21(15E,422), and 701—58.11(15E,422). ~~See also 2015 Iowa Acts, chapter 138, division XX.~~

~~115.1(6)~~ *Tax credits for pass-through entities.* If the taxpayer that is entitled to a tax credit for an investment in a community-based seed capital fund or a qualifying business is a pass-through entity electing to have its income taxed directly to its individual owners, such as a partnership, limited liability company, S corporation, estate or trust, the pass-through entity must allocate the allowable credit to each of the individual owners of the entity on the basis of each owner's pro-rata share of the earnings of the entity, and the individual owners may claim their respective credits on their individual income tax returns.

~~115.1(7)~~ *Refundability for certain tax credits.* For a tax credit claimed against the taxes imposed in Iowa Code chapter 422, division II, any tax credit in excess of the tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~115.1(8) Carryforward period for certain tax credits.~~ For a tax credit claimed against the taxes imposed in Iowa Code chapter 422, divisions III and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following three years or until depleted, whichever is earlier.

~~115.1(9) Carryback of credits prohibited.~~ A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit.

ITEM 3. Amend rule 261—115.2(15E) as follows:

**261—115.2(15E) Definitions.** For purposes of this chapter, unless the context otherwise requires:

*"Affiliate"* means a spouse, child, or sibling of an investor or a corporation, partnership, or trust in which an investor has a controlling equity interest or in which an investor exercises management control.

*"Authority"* means the economic development authority created in 2011 Iowa Acts, House File 590 Iowa Code section 15.105.

*"Board"* means ~~the same as defined in Iowa Code section 15.102 as amended by 2011 Iowa Acts, House File 590, section 3~~ the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

*"Community-based seed capital fund"* means a fund that meets the following criteria:

1. ~~Is organized as a limited partnership or limited liability company;~~

2. ~~Has, on or after January 1, 2011, a total of capital commitments from both investors and investments in qualifying businesses of at least \$125,000, but not more than \$3 million. If the fund is either a rural business investment company under the Rural Business Investment Program of the federal Farm Security and Rural Investment Act of 2002 or an Iowa-based seed capital fund with at least 40 percent of its committed capital subscribed by community-based seed capital funds, the fund may have more than \$3 million of capital commitments from both investors and investments in qualifying businesses; and~~

3. ~~Has no fewer than five investors that are not affiliates, with no single investor and affiliates of that investor together owning a total of more than 25 percent of the ownership interests outstanding in the fund.~~

*"Controlling equity interest"* means ownership of more than 50 percent of the outstanding equity interests of a corporation, partnership, limited liability company or trust.

*"Convertible debt"* means debt that may be converted to equity at the option of the debt holder but has not yet been converted.

*"Entrepreneurial assistance program"* includes the entrepreneur investment awards program administered under Iowa Code section 15E.362, the receipt of services from a service provider engaged pursuant to Iowa Code section 15.411(1) or the program administered under Iowa Code section 15.411(2).

*"Equity"* means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, or partnership interests in partnerships, or near equity. Equity shall be limited to securities or interests acquired only for cash and shall not include securities or interests acquired at any time for services, contributions of property other than cash, convertible debt, or any other non-cash consideration.

*"Investor"* means a person that makes a cash investment in a ~~community-based seed capital fund or in a qualifying business on or after January 1, 2011, and before July 2, 2015.~~ *"Investor"* also means a person making a cash investment in a qualifying business on or after July 2, 2015. *"Investor"* does not include a person that holds at least a 70 percent ownership interest as an owner, member, or shareholder in a qualifying business ~~for investments made on or after January 1, 2011.~~

*"Management control"* means holding more than 50 percent of the voting power on any board of directors or trustees, any management committee, or any other group managing a corporation, partnership, limited liability company or trust.

*"Person"* means an individual, corporation, limited liability company, business trust, estate, trust, partnership or association, or any other legal entity.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*“Qualifying business”* means, in the case of investments made on or after July 2, 2015, a business that meets all of the following criteria: a business that meets the criteria listed in subrule 115.5(2).

1. ~~The principal business operations of the business are located in the state of Iowa;~~
2. ~~The business has been in operation for six years or less, as measured from the date of the investment for which a credit is claimed;~~
3. ~~The business is participating in an entrepreneurial assistance program. The authority may waive this requirement if a business establishes that its owners, directors, officers, and employees have an appropriate level of experience such that participation in an entrepreneurial assistance program would not materially change the prospects of the business. The authority may consult with outside service providers in consideration of such a waiver;~~
4. ~~The business is not a business engaged primarily in retail sales, real estate or the provision of health care services or other services requiring a professional license;~~
5. ~~The business does not have a net worth that exceeds \$10 million as of the date of the investment for which the credit is claimed; and~~
6. ~~The business shall have secured all of the following at the time of application for tax credits:
 
  - ~~At least two investors.~~
  - ~~Total equity financing, binding investment commitments, or some combination thereof, equal to at least \$500,000 from investors.~~~~

For purposes of paragraph “6,” “investor” includes a person that executes a binding investment commitment to a business.

*“Services requiring a professional license”* includes but is not limited to the professions listed in Iowa Code section 496C.2.

ITEM 4. Amend rule 261—115.3(15E) as follows:

**261—115.3(15E) Cash investments required.** In order to qualify for a tax credit under this chapter, the taxpayer’s investment must be made in the form of cash to purchase equity in a qualifying business ~~or in a community-based seed capital fund.~~ Convertible debt shall only be considered an investment in the form of cash to purchase equity as of the date of conversion.

ITEM 5. Amend rule 261—115.4(15E) as follows:

**261—115.4(15E) Applying for an investment tax credit.**

**115.4(1)** A taxpayer that desires to receive an investment tax credit for an equity investment in a qualifying business ~~or community-based seed capital fund~~ shall submit an application to the board for approval and provide such other information and documentation as may be requested by the board. Application forms for the investment tax credit may be obtained by contacting the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. ~~The telephone number is (515)725-3000~~ a qualifying business that has received a notice of certification pursuant to rule 261—115.5(15E).

**115.4(2)** Applications shall be date- and time-stamped by the authority in the order in which such applications are received. Applications for the investment tax credit shall be accepted by the authority until March 31 of the year following the calendar year in which the taxpayer’s equity investment was made. ~~For investments made on or after July 2, 2015, and before January 1, 2016, applications for the investment tax credit shall be accepted by the authority until August 17, 2016.~~ Investors who do not submit an application by the March 31 deadline are ineligible to receive a tax credit.

EXAMPLE 1: A taxpayer makes an equity investment in a qualifying business on December 31, 2011. The taxpayer has until March 31, 2012, to apply to the authority for an investment tax credit.

EXAMPLE 2: A taxpayer makes an equity investment in a qualifying business on July 1, 2012. The taxpayer has until March 31, 2013, to apply to the authority for an investment tax credit.

The authority may accept applications after the deadline under extenuating circumstances. The authority shall not consider the lack of an available application filing window pursuant to paragraph 115.6(6)“b” as an extenuating circumstance.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 6. Rescind rule 261—115.5(15E) and adopt the following **new** rule in lieu thereof:

**261—115.5(15E) Certification of qualifying businesses.**

**115.5(1) Application for certification.** Within 120 days from the first date on which the equity investments qualifying for investment tax credits have been made, a qualifying business shall apply to the authority for certification as a qualifying business as prescribed by the authority. Investments made more than 120 days prior to receipt by the authority of a substantially complete application for certification shall not be eligible for a tax credit. The application for certification will include the following information:

- a. A description of the general nature of the business's operations, the location of the principal business operations, the date on which the business was formed, and the date on which the business commenced operations;
- b. A balance sheet that reflects the qualifying business's assets, liabilities and owner's equity as of the close of the most recent month or quarter;
- c. A description of the manner in which the business satisfies one of the business experience requirements set forth in paragraph 115.5(2) "c";
- d. The names, addresses, shares or equity interests issued, consideration paid for the shares or equity interests, and amounts of any tax credits of all shareholders or equity holders who may initially qualify for the tax credits and the date on which the investment was made. The application shall contain a commitment by the qualifying business to amend its list of investors as may be necessary from time to time to reflect new equity interests or transfers in equity among current equity holders or as any other information on the list may change. Applications for tax credits for investments that are not reflected on the most recent listing of investors provided to the authority shall not be eligible for tax credits until an amended list is provided by the qualifying business;
- e. A signed statement from an officer, director, manager, member, or general partner of the qualifying business certifying the accuracy of the information provided; and
- f. Any other information as the authority may reasonably require to determine the business's eligibility for certification as a qualifying business and its investors' eligibility to receive tax credits.

**115.5(2) Eligibility for certification as a qualifying business.** A business shall meet all the following criteria to be eligible for certification as a qualifying business:

- a. The principal business operations of the business are located in the state of Iowa;
- b. The business has been in operation for six years or less, as measured from the date of the investment for which a credit is claimed;
- c. The business is participating in an entrepreneurial assistance program. The authority may waive this requirement if a business establishes that its owners, directors, officers, and employees have an appropriate level of experience such that participation in an entrepreneurial assistance program would not materially change the prospects of the business. The authority may consult with outside service providers in consideration of such a waiver;
- d. The business is not a business engaged primarily in retail sales, real estate, or the provision of health care services or other services requiring a professional license. In determining whether a business is primarily engaged in retail sales, factors the authority will consider include, but are not limited to, the sources of the business's revenue, whether the business manufactures a product it sells, and whether the business owns intellectual property associated with a product it sells;
- e. The business does not have a net worth that exceeds \$10 million as of the date of the investment for which the credit is claimed; and
- f. The business shall have secured all of the following at the time of application for tax credits:
  - (1) At least two investors.
  - (2) Total equity financing, binding equity investment commitments, or some combination thereof, equal to at least \$500,000 from investors. For the purposes of determining whether a business has secured at least \$500,000 from investors, convertible debt shall only be considered equity as of the date of conversion.



## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

For purposes of paragraph 115.5(2)“f,” “investor” includes a person that executes a binding investment commitment to a business.

**115.5(3) Authority review and notice of certification.**

a. Upon the authority’s receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth in subrule 115.5(2), the authority shall, within a reasonable period of time, determine whether a business shall be certified as a qualifying business and, if applicable, issue written notification to the qualifying business that such business has been certified with the authority for the purpose of issuing investment tax credits. The notice shall indicate that such certification is subject to revocation or expiration pursuant to subrule 115.5(4). The authority will indicate in its written notice the first date investments are eligible for a tax credit based on the date of application for certification and the date the authority expects the certification to expire based on the date the business began operations.

b. The authority will only accept applications for investment tax credits from investors in qualifying businesses that have received a written notice of certification.

**115.5(4) Revocation and expiration of certification.**

a. A certified qualifying business must notify the authority as soon as it becomes aware of any changes in its eligibility as a qualifying business or in the eligibility of its investors to receive tax credits. A certified qualifying business shall provide any information as the authority may reasonably request to confirm the business’s continued eligibility for certification as a qualifying business and the eligibility of its investors to receive tax credits.

b. If a qualifying business fails to meet or maintain any requirement set forth in this chapter, the authority shall revoke the business’s certification as a qualifying business by issuing written notification of revocation to the business. If applicable, the notification shall identify the last date on which the business was eligible to be certified as a qualifying business. Investments made after the identified date will not be eligible for a tax credit.

c. If a business continues to satisfy all eligibility requirements until it has been in operations for more than six years, the business’s certification will expire on the date identified as the expected date of expiration pursuant to paragraph 115.5(2)“a.” Investments made after the identified date will not be eligible for a tax credit.

ITEM 7. Amend rule 261—115.6(15E) as follows:

**261—115.6(15E) Approval, issuance and distribution of investment tax credits.**

**115.6(1) Approval by the board.** Upon ~~verification and registration~~ certification by the authority of a qualifying business ~~or community-based seed capital fund~~ and approval of the taxpayer’s application, the board will approve the issuance of a tax credit certificate to the taxpayer applying for the tax credit.

**115.6(2) Issuance by the authority.** Upon approval by the board, the authority shall issue a tax credit certificate to the applicant, provided, however, that such tax credit certificate shall be subject to rescission pursuant to rule 261—115.9(15E). ~~In the case of investments made on or after July 2, 2015, the authority will not issue a tax credit certificate prior to July 1, 2016.~~

**115.6(3) Preparation of certificate.** The tax credit certificate shall be prepared by the authority in a form approved by the board and shall contain the taxpayer’s name, address, and tax identification number, the amount of credit, the name of the qualifying business ~~or community-based seed capital fund~~, the year in which the credit may be redeemed and any other information that may be required by the department of revenue. In addition, the tax credit certificate shall contain the following statement:

Neither the authority nor the board has recommended or approved this investment or passed on the merits or risks of such investment. Investors should rely solely on their own investigation and analysis and seek investment, financial, legal and tax advice before making their own decision regarding investment in this enterprise.

**115.6(4) Tax credit amount limitations.** The aggregate amount of tax credits issued ~~per fiscal year~~ pursuant to this chapter shall not exceed the amount allocated by the board pursuant to Iowa Code section 15.119, ~~subsection 2. For fiscal year 2012 and all subsequent fiscal years, that amount is \$2 million. In any one calendar year, the amount of tax credits issued for any one qualifying business shall not exceed \$500,000.~~

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~If, during any fiscal year during which tax credits are to be issued under this chapter, applications totaling more than the maximum amounts are received and approved, the applications will be carried forward and prioritized to receive tax credit certificates on a first-come, first-served basis in subsequent fiscal years.~~

~~When carrying forward and prioritizing such applications, the authority shall (1) issue tax credit certificates to the taxpayers for such carryover tax credits before issuing any new tax credits to later applicants, and (2) apply the aggregate amount of the credits carried over against the total amount of tax credits to be issued during the subsequent fiscal year before approving or issuing additional tax credits.~~

**115.6(5) Waitlist for applications received on or before March 31, 2022.**

a. If the maximum aggregate amount of tax credits is awarded in a given fiscal year, investors who are determined eligible for a tax credit but were not awarded a tax credit shall be placed on a waitlist in the order the applications are received. Applications that are placed on a waitlist shall be given priority for receiving tax credits in succeeding fiscal years. Placement on a waitlist pursuant to this paragraph shall not constitute a promise binding the state. The availability of a tax credit and issuance of a tax credit certificate pursuant to this rule in a future fiscal year is contingent upon the availability of tax credits in that particular fiscal year or years. This subrule shall apply only to applications received on or before March 31, 2022.

b. Any application that can be partially approved without exceeding the maximum aggregate amount of tax credits will be approved as to the portion less than the maximum aggregate amount and placed on a waitlist as to the portion greater than the maximum aggregate amount. For example, if an application is eligible for \$50,000 of tax credits, but there is only \$30,000 of the maximum aggregate amount available, the application will be approved for \$30,000 and placed on a waitlist for \$20,000.

**115.6(6) Applications received on or after April 1, 2022.**

a. Applications for tax credits received on or after April 1, 2022, will not be placed on a waitlist if the maximum aggregate amount of tax credits is awarded in a given fiscal year.

b. Beginning on or after April 1, 2022, the authority will identify an application period, or periods, on the authority's Internet site at [www.iowaeda.com](http://www.iowaeda.com) for each fiscal year in which an allocation of tax credits is available and has not been fully utilized by applications previously placed on a waitlist pursuant to subrule 115.6(5). Only applications submitted during the established filing window will be reviewed for eligibility by the authority. Each identified application period will remain open until the date indicated by the authority for that fiscal year.

c. Applications received on or after April 1, 2022, in excess of the maximum aggregate amount of tax credits for the fiscal year in which they are received will be denied by the board, regardless of whether the investment was otherwise eligible to receive a tax credit award.

d. Any application that can be partially approved without exceeding the maximum aggregate amount of tax credits will be approved as to the portion less than the maximum aggregate amount and denied as to the portion greater than the maximum aggregate amount. For example, if an application is eligible for \$50,000 of tax credits, but there is only \$30,000 of the maximum aggregate amount available, the application will be approved for \$30,000 and denied for \$20,000.

ITEM 8. Amend rule 261—115.7(15E) as follows:

**261—115.7(15E) Claiming the tax credits.** To claim a tax credit under this chapter, a taxpayer must ~~attach to~~ include with that taxpayer's tax return a certificate issued pursuant to this chapter when the return is filed with the department of revenue. For more information on claiming tax credits, see department of revenue ~~rule rules~~ rules 701—42.22(15E,422), 701—52.21(15E,422), and 701—58.11(15E,422). ~~In the case of tax credits issued for investments made on or after July 2, 2015, a taxpayer shall not claim a tax credit at the department of revenue prior to September 1, 2016.~~

ITEM 9. Amend rule 261—115.8(15E) as follows:

**261—115.8(15E) Notification to the department of revenue.** Upon the issuance and distribution of investment tax credits for a tax year, the authority shall promptly notify the department of revenue by

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

providing copies of the tax credit certificates issued for such tax year to the department of revenue. Such notification shall also include, but not be limited to, the aggregate number and amount of tax credits issued for the tax year.

ITEM 10. Amend rule 261—115.9(15E) as follows:

**261—115.9(15E) Rescinding tax credits.** In the event that a qualifying business fails to meet or maintain any requirement set forth in this chapter, the authority, upon action by the board, shall rescind any tax credit certificates issued to taxpayers for investments made after the date as of which the business's certification was revoked or expired and shall notify the department of revenue that it has done so. A tax credit certificate that has been rescinded by the authority shall be null and void, and the department of revenue will not accept the tax credit certificate.

~~115.9(1) Rescission of credits for investments in qualifying businesses.~~

~~a.—In the case of investments made on or after July 1, 2011, and before January 1, 2014, within 24 months from the first date on which the equity investments qualifying for investment tax credits have been made, a qualifying business shall have secured total equity or near equity financing equal to at least \$250,000. The business shall provide to the authority information and documentation sufficient to demonstrate that the business has secured total equity or near equity financing equal to at least \$250,000 and that such financing was secured within the 24 months required by this rule and shall do so by the equity deadline. For purposes of this subrule, the “equity deadline” shall be the next June 30 following the end of the calendar year in which the qualifying business is required to have secured total equity or near equity financing equal to at least \$250,000. For example, a qualifying business in which equity investments qualifying for investment tax credits were made in 2011 shall have an equity deadline of June 30, 2014. Examples of sufficient information and documentation include, but are not limited to, the following:~~

~~(1) Corporate, partnership or limited liability company certified resolutions setting forth the names of individuals or entities making capital contributions and the amounts of such capital contributions;~~

~~(2) Certified corporate, partnership, or limited liability company minutes reflecting the names of individuals or entities making capital contributions and the amounts of such capital contributions.~~

~~b.—On or by the equity deadline, a qualifying business shall certify to the authority, by a statement signed by an officer, director, member, manager, or general partner of the qualifying business, that it secured the requisite amount of equity financing required by this rule within 24 months from the date on which the equity investments qualifying for investment tax credits were made and shall recertify to the authority that the qualifying business continues to meet the requirements set forth in subrule 115.5(1).~~

~~c.—In the event that a qualifying business fails to meet or maintain any requirement set forth in this rule, including, without limitation, timely filing of the certifications described in paragraph 115.9(1) “b,” the authority, upon action by the board, shall rescind any tax credit certificates issued to those taxpayers and shall notify the department of revenue that it has done so. A tax credit certificate that has been rescinded by the authority shall be null and void, and the department of revenue will not accept the tax credit certificate. In addition, the authority shall remove the qualifying business from the registry and shall issue written notification of such removal to the qualifying business and the applicants.~~

~~115.9(2) Rescission of credits for investments in community-based seed capital funds.~~

~~a.—A community-based seed capital fund shall have invested at least 33 percent of its invested capital in one or more separate qualifying businesses on or by the last day of the 48-month period that commences with the fund's investing activities.~~

~~b.—On or by the last day of the 48-month period described in paragraph 115.9(2) “a,” a community-based seed capital fund shall certify to the board, by a statement signed by an officer, director, member, manager, or general partner of the community-based seed capital fund, that it has met the requirements of this rule within the time period prescribed by this subrule and shall recertify to the board that the community-based seed capital fund continues to meet the requirements set forth in subrule 115.5(2).~~

~~c.—In the event that a community-based seed capital fund fails to meet or maintain any requirement set forth in this subrule, including, without limitation, timely filing of the certifications described in~~

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~paragraph 115.9(2) “b,” the authority, upon action of the board, shall rescind any tax credit certificates issued to limited partners or members and shall notify the department of revenue that it has done so. A tax credit certificate that has been rescinded by the authority shall be null and void, and the department of revenue will not accept the tax credit certificate. In addition, the authority shall remove such community-based seed capital fund from the registry and shall issue written notification of such removal to the community-based seed capital fund and the applicants.~~

~~d. Notwithstanding paragraphs 115.9(2) “a” to “c,” a community-based seed capital fund may apply to the authority for a one-year waiver from the requirements of this rule. The authority shall, upon review of a community-based seed capital fund’s application for waiver, exercise reasonable discretion in granting or denying such waiver. In the event that the authority grants to a community-based seed capital fund a one-year waiver from the requirements of this rule, the authority shall defer any rescission of the tax credit certificates until the expiration of such one-year waiver period. If the community-based seed capital fund meets the requirements of this rule by the expiration of such one-year waiver period, the tax credit certificates shall not be rescinded. However, the tax credit certificates shall be rescinded at the end of such one-year waiver period if such requirements have not been met.~~

ITEM 11. Amend subrule 115.10(1) as follows:

**115.10(1) Additional information.** The authority may at any time request additional information and documentation from a qualifying business ~~or community-based seed capital fund~~ regarding the operations, job creation and economic impact of such qualifying business ~~or community-based seed capital fund~~, and the authority may use such information in preparing and publishing any reports to be provided to the governor and the general assembly.

ITEM 12. Amend **261—Chapter 115**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 15E, ~~division subchapter V, and 2011 Iowa Acts, Senate File 517.~~

**ARC 6133C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Notice of Intended Action**

**Proposing rule making related to teacher and administrator licenses and endorsements and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” and Chapter 18, “Issuance of Administrator Licenses and Endorsements,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 272.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 272.2.

*Purpose and Summary*

The proposed amendments remove the testing requirement for out-of-state applicants who have completed assessments in another state, add a new 5-12 Mathematics – basic endorsement, expand the teacher intern program endorsement areas, simplify conditional licensure, allow career and technical authorization holders to obtain a multioccupations endorsement, and remove course deficiencies for any out-of-state administrator who has at least five years of experience.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on February 1, 2022. Comments should be directed to:

Kimberly Cunningham  
Board of Educational Examiners  
701 East Court Avenue, Suite A  
Des Moines, Iowa 50319-0147  
Fax: 515.281.7669  
Email: [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov)

*Public Hearing*

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

February 1, 2022  
11 a.m. to 12 noon

Board Room  
701 East Court Avenue, Suite A  
Des Moines, Iowa

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **13.5(2)“b”(2)** as follows:

(2) Shall provide verification of ~~successfully passing the Iowa mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013, and the applicant has verified fewer than three years of valid out-of-state teaching experience. If the teacher preparation program was completed prior to January 1, 2013, or if the applicant has verified three years of valid out-of-state teaching experience, the applicant~~

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed (or verify highly qualified status) or must provide verification of successfully passing the Iowa mandated assessment(s) by meeting the minimum score set by the Iowa department of education. one of the following:~~

1. Successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013; or

2. Successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed; or

3. Three years of teaching experience while holding a valid teaching license.

ITEM 2. Amend subrule 13.5(3) as follows:

**13.5(3) *Applicants from foreign institutions.*** An applicant for initial licensure whose preparation was completed in a foreign institution must additionally obtain a course-by-course credential evaluation report completed by one of the board-approved credential evaluation services and then file this report with the Iowa board of educational examiners for a determination of eligibility for licensure. After receiving the notification of eligibility by the Iowa board of educational examiners, the applicant must provide verification of successfully passing the Iowa-mandated assessment(s) ~~pursuant to subparagraph 13.5(2)“b”(2)~~ by meeting the minimum score set by the Iowa department of education.

ITEM 3. Amend rule 282—13.9(272) as follows:

**282—13.9(272) Teacher intern license.**

**13.9(1) *Authorization.*** The teacher intern is authorized to teach ~~in grades 7 to 12~~ within qualified endorsement areas approved by the Iowa department of education for teacher internships.

**13.9(2)** No change.

**13.9(3) *Teacher intern requirements.*** A teacher intern license and endorsement may be issued to an applicant who has been recommended by an institution with a state-approved intern program and who has met the background check requirements set forth in rule 282—13.1(272).

**13.9(4) and 13.9(5)** No change.

ITEM 4. Amend subrule 13.11(1) as follows:

**13.11(1) *Endorsement in progress.*** The individual has a valid initial, standard, master educator, permanent professional, Class A extension, exchange, or professional service license and one or more endorsements but is seeking to obtain some other endorsement. A Class B license may be issued if requested by an employer and if the individual seeking to obtain some other endorsement has completed ~~at least two-thirds of the requirements, or one-half of the content requirements in a state-designated shortage area,~~ leading to completion of all requirements for the endorsement. A Class B license may not be issued for the driver's education endorsement.

ITEM 5. Adopt the following **new** paragraph **13.28(12)“d”**:

*d. 5-12 mathematics—basic.* Completion of 24 semester hours in mathematics which must minimally include a course titled college algebra or a higher algebra course, a geometry course, a computer programming course, and a probability and statistics course.

ITEM 6. Amend subrule 13.28(33) as follows:

**13.28(33) *Multioccupations.***

*a.* Completion of any 5-12 endorsement and, in addition thereto, coursework in foundations of career and technical education and coordination of cooperative programs, and work experience which meets one of the following:

(1) Four thousand hours of career and technical experience in two or more careers; or

(2) ~~One thousand hours~~ Two hundred forty hours of work experience or externships in two or more careers and two or more years of teaching experience at the PK-12 level.

*b.* No change.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*c.* Holders of the career and technical authorization are eligible to apply to add this endorsement.

ITEM 7. Amend **282—Chapter 13**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 272 ~~and 2014 Iowa Acts, chapter 1116, division VI.~~

ITEM 8. Adopt the following **new** paragraph **18.6(1)“d”**:

*d.* Has less than five years of verified experience as a school administrator while holding a valid administrator license.

**ARC 6144C****ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action****Proposing rule making related to air quality  
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 20, “Scope of Title—Definitions,” Chapter 21, “Compliance,” and Chapter 22, “Controlling Pollution,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 455B.133 and 455B.134.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 455B.133 and 455B.134.

*Purpose and Summary*

Collectively, Chapters 20 through 22 regulate air pollution. This proposed rule making will require the electronic submittal of all air emissions reporting, air permit applications, and other air quality documents. In brief, electronic submittals will increase government efficiencies and reduce programmatic costs of the Department of Natural Resources (Department). Electronic submittals allow permit applications and emissions inventories to be filed from any location at any time. Electronic submittals also enable Department staff to timely review and process the submittals regardless of the staff’s work location. In tandem, this proposed change removes the delays and costs inherent in mailing and scanning paper documents.

In more detail, under the proposed rule making, minor sources of air emissions will be required to file emissions data into the State and Local Emissions Inventory System (SLEIS). SLEIS is a well-utilized resource already, with approximately 70 percent of minor sources choosing to electronically submit their data in 2020. Major sources have been required to use SLEIS since 2019.

Emissions inventory data collection and analysis are critical to understanding and improving Iowa’s air quality. Having all emissions data in one electronic system makes it easier for the Department to track data, report to the national emissions inventory, and respond to external and internal requests for emissions data. For several years, all paper emissions inventories have been manually entered into SLEIS by Department staff. Staff data entry of paper inventories can be time consuming and costly. A fully electronic submission system will eliminate the need for manual entry, freeing up support staff to work on other tasks.

Similarly, under the proposed rule making, both major and minor sources of air emissions will be required to use the Iowa Environmental Application System for Air (Iowa EASY Air) for all air construction and Title V operating permit applications. Iowa EASY Air is also a popular resource and has been since its release in 2019. Over the past year, approximately 89 percent of Title V new and

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

renewal permits and approximately 80 percent of construction permit applications have been voluntarily submitted through the system.

Iowa EASY Air makes air construction and Title V operating permit application preparation and other submissions easier and more efficient for the regulated community. The Department issues over 2,000 air quality permits every year. Over time, Iowa EASY Air has increased the Department's permit review and issuance rate and data accuracy, thereby cutting costs for both applicants and the Department. Additionally, data available in Iowa EASY Air supplies the Department's downstream electronic systems, helping to lessen the data entry burden by industry and the Department.

The Department will continue to offer training, outreach, and help desk assistance to all system users.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2022. Comments should be directed to:

Christine Paulson  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319  
Email: [Christine.Paulson@dnr.iowa.gov](mailto:Christine.Paulson@dnr.iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Christine Paulson via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Christine Paulson prior to the hearing to facilitate an orderly hearing.

February 14, 2022  
1 to 2 p.m.

Via video/conference call

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

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



## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **567—20.2(455B)**, definition of “Electronic format,” as follows:

“*Electronic format*,” “*electronic submittal*,” and “*electronic submittal format*,” for purposes of the rules in 567—Chapters 20 through 35, mean a software, Internet-based, or other electronic means specified by the department for submitting air quality information or fees to the department related to, but not limited to, applications, certifications, determination requests, emissions inventories, forms, notifications, payments, permit applications and registrations. References to these information submittal methods in 567—Chapters 20 through 35 may, as specified by the department, include electronic submittal as stated in the applicable administrative rules.

ITEM 2. Amend subrule 21.1(3) as follows:

**21.1(3) Emissions inventory.** The person responsible for equipment as defined herein shall provide information on fuel use, materials processed, air contaminants emitted (including greenhouse gases as “greenhouse gas” is defined in rule 567—20.2(455B)), estimated rate of emissions, periods of emissions or other air pollution information to the director upon the director’s written request for use in compiling and maintaining an emissions inventory for evaluation of the air pollution situation in the state and its various parts. The ~~Until December 31, 2022,~~ information requested shall be submitted on forms or by electronic format specified by the department. ~~On or after January 1, 2023,~~ the information requested shall be submitted in the electronic format specified by the department, if electronic submittal is provided. All information in regard to both actual and allowable emissions shall be public records, and any publication of such data shall be limited to actual and allowable air contaminant emissions.

ITEM 3. Amend subrule 22.1(3), introductory paragraph, as follows:

**22.1(3) Construction permits.** The owner or operator of a new or modified stationary source shall apply for a construction permit. ~~One~~ Until December 31, 2022, one copy of a construction permit application for a new or modified stationary source shall be presented or mailed to the air quality bureau of the department of natural resources. Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, and hand delivery. Applications are not required to be submitted by certified mail. Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department. References to “application(s),” “certification(s),” “determination request(s),” “emissions inventory(ies),” “fees,” “form(s),” “notification(s),” “payment(s),” “permit application(s),” and “registration(s)” in rules 567—22.1(455B) through 567—22.10(455B) may, as specified by the department, include electronic submittal. ~~An owner or operator applying for a permit as required pursuant to rule 567—31.3(455B) (nonattainment new source review) or rule 567—33.3(455B) (prevention of significant deterioration (PSD)) shall present or mail to the department one hard copy of a construction permit application to the address specified above and, upon request from the department, shall also submit one electronic copy and one additional hard copy of the application. Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, and hand delivery. Applications are not required to be submitted by certified mail. The owner or operator of any new or modified industrial anaerobic lagoon shall apply for a construction permit as specified in this subrule and as provided in 567—Chapter 22. The owner or operator of a new or modified anaerobic lagoon for an animal feeding operation shall apply for a construction permit as provided in 567—Chapter 65.~~

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Until December 31, 2022, an owner or operator applying for a permit as required pursuant to rule 567—31.3(455B) (nonattainment new source review) or rule 567—33.3(455B) (prevention of significant deterioration (PSD)) shall present or mail to the department one hard copy of a construction permit application to the address specified above and, upon request from the department, shall also submit one electronic copy and one additional hard copy of the application. Alternatively, the owner or operator may apply for a permit as required pursuant to rule 567—31.3(455B) or rule 567—33.3(455B) through the electronic submittal format specified by the department.

The owner or operator of any new or modified industrial anaerobic lagoon shall apply for a construction permit as specified in this subrule and as provided in 567—Chapter 22. The owner or operator of a new or modified anaerobic lagoon for an animal feeding operation shall apply for a construction permit as provided in 567—Chapter 65.

On or after January 1, 2023, construction permit applications, including the information referenced above and in rules 567—22.1(455B) through 567—22.10(455B), shall be submitted in the electronic format specified by the department, if electronic submittal is provided.

ITEM 4. Amend rule 567—22.105(455B) as follows:

**567—22.105(455B) Title V permit applications.**

**22.105(1) *Duty to apply.*** For each source required to obtain a Title V operating permit, the owner or operator or designated representative, where applicable, shall, until December 31, 2022, present or mail a complete and timely permit application in accordance with this rule to the following locations: Iowa Department of Natural Resources, Air Quality Bureau, 502 East 9th Street, Des Moines, Iowa 50319 (one copy); and U.S. EPA Region VII, 11201 Renner Boulevard, Lenexa, Kansas 66219 (one copy); and, if applicable, the local permitting authority, which is either Linn County Public Health Department, Air Quality Division, 501 13th Street NW, Cedar Rapids, Iowa 52405 (one copy); or Polk County Public Works, Air Quality Division, 5885 NE 14th Street, Des Moines, Iowa 50313 (one copy). Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, or hand delivery. Applications are not required to be submitted by certified mail. Alternatively, an owner or operator may submit a complete and timely application through the electronic submittal format specified by the department. An owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit all required fees as required in 567—Chapter 30.

On or after January 1, 2023, Title V operating permit applications, including the information referenced above and in rules 567—22.100(455B) through 567—22.116(455B), shall be submitted in the electronic format specified by the department, if electronic submittal is provided. An owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit all required fees as required in 567—Chapter 30.

*a. and b.* No change.

**22.105(2) *Standard application form and required information.*** To apply for a Title V permit, applicants shall, until December 31, 2022, complete the standard permit application form available only from the department and supply all information required by the filing instructions found on that form. ~~The information submitted must be sufficient to evaluate the source and its application and to determine all applicable requirements and to evaluate the fee amount required by rule 567—30.4(455B). If a source is not a major source and is applying for a Title V operating permit solely because of a requirement imposed by paragraphs 22.101(1)“c” and “d,” then the information provided in the operating permit application may cover only the emissions units that trigger Title V applicability. The applicant shall submit the information called for by the application form for each emissions unit to be permitted, except for activities which are insignificant according to the provisions of rule 567—22.103(455B). The applicant shall provide a list of all insignificant activities and specify the basis for the determination of insignificance for each activity. Nationally standardized forms shall be used for the acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act. The standard application form and any attachments shall require that the following information be provided: Alternatively, an owner or operator may submit a complete and timely application through the electronic submittal format specified by the department.~~

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

On or after January 1, 2023, the standard application form shall be submitted in the electronic format specified by the department, if electronic submittal is provided.

The information submitted must be sufficient to evaluate the source and its application and to determine all applicable requirements and to evaluate the fee amount required by rule 567—30.4(455B). If a source is not a major source and is applying for a Title V operating permit solely because of a requirement imposed by paragraphs 22.101(1)“c” and “d,” then the information provided in the operating permit application may cover only the emissions units that trigger Title V applicability. The applicant shall submit the information called for by the application form for each emissions unit to be permitted, except for activities which are insignificant according to the provisions of rule 567—22.103(455B). The applicant shall provide a list of all insignificant activities and specify the basis for the determination of insignificance for each activity.

Unless otherwise specified in subrule 22.128(4), nationally standardized forms shall be used for the acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act. The standard application form and any attachments shall require that the following information be provided:

*a. to j.* No change.

**22.105(3) to 22.105(5)** No change.

ITEM 5. Amend subrule 22.128(4) as follows:

**22.128(4) *Submission of copies.*** One copy of all permit applications shall, until December 31, 2022, be presented or mailed to the air quality bureau of the department of natural resources. Alternatively On or after January 1, 2023, the designated representative may, as specified by the department, submit the application through electronic submittal shall submit the application in the electronic format specified by the department, if electronic submittal is provided.

**ARC 6143C**

**NATURAL RESOURCE COMMISSION[571]**

**Notice of Intended Action**

**Proposing rule making related to definitions of species  
and providing an opportunity for public comment**

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 112, “Hunting Preserves,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6) and 484B.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 484B.1 and 484B.3(1).

*Purpose and Summary*

Chapter 112 contains rules governing hunting preserves. This proposed rule making would amend rule 571—112.1(484B), which provides definitions of terms used in Chapter 112, including the term “ungulate.” “Ungulate” is also defined in Iowa Code chapter 484B, “Hunting Preserves,” and an inconsistency currently exists between the definition in the rule and the statutory definition. Because the definition of “ungulate” affects what species may be kept and hunted on a hunting preserve, this inconsistency risks confusion for hunting preserve licensees and hunters. This proposed rule making would adopt the statutory definition by reference and thereby resolve the inconsistency and ensure that Department of Natural Resources (Department) permitting and enforcement practices conform to state law.

## NATURAL RESOURCE COMMISSION[571](cont'd)

Rule 571—112.1(484B) also provides a definition of the term “game birds.” This same term is defined in Iowa Code chapter 484B. 2021 Iowa Acts, House File 747, which was signed by Governor Reynolds on April 30, 2021, and took effect July 1, 2021, includes an amendment to the statutory definition of “game birds.” The current definition in the rule differs from the recently amended statutory definition. This proposed rule making would adopt the statutory definition by reference and thereby avoid any inconsistencies.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

*Jobs Impact*

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

*Waivers*

This rule is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 2, 2022. Comments should be directed to:

Karmin Klingenberg  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319  
Email: [karmin.klingenberg@dnr.iowa.gov](mailto:karmin.klingenberg@dnr.iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Karmin Klingenberg via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Karmin Klingenberg prior to the hearing to facilitate an orderly hearing.

February 2, 2022  
1:30 p.m.

Video/conference call

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

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

## NATURAL RESOURCE COMMISSION[571](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule **571—112.1(484B)**, definitions of “Game birds” and “Ungulate,” as follows:

“*Game birds*” means ~~pen-reared birds of the family gallinae and mallard ducks~~ the same as defined in Iowa Code section 484B.1(5).

“*Ungulate*” means ~~pen-reared, hoofed, nondomesticated mammal (big game)~~ the same as defined in Iowa Code section 484B.1(10).

**ARC 6142C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to supervision  
and providing an opportunity for public comment**

The Iowa Board of Social Work and the Iowa Board of Behavioral Science hereby propose to amend Chapter 31, “Licensure of Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts,” and Chapter 280, “Licensure of Social Workers,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 154C.3 and 154D.3 and 2021 Iowa Acts, House File 891, division XVI.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 891, division XVI.

*Purpose and Summary*

2021 Iowa Acts, House File 891, division XVI, requires the Board of Behavioral Science and the Board of Social Work to jointly develop substantially identical supervision rules for social workers, mental health counselors, and marriage and family therapists who are completing their supervised practice hours toward meeting their independent level license requirements. The Board of Behavioral Science and the Board of Social Work created a joint committee and elicited public comments prior to this proposed rule making, which standardizes supervision requirements and reduces the minimum number of hours for certain requirements. The minimum number of total practice hours is set at 3,000 hours, and the minimum number of direct client contact hours is set at 2,000. Furthermore, the proposed rule making sets the minimum number of supervision meeting hours at 110 and requires that 24 of these hours involve direct observation of the supervisee providing services. Direct observation may be live or recorded.

The proposed rule making also limits the number of supervisors a supervisee can have at any one time to four, and it adds language that supervisors are responsible for ensuring they are not supervising more supervisees than can be safely and competently supervised.

*Fiscal Impact*

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

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board of Social Work or Board of Behavioral Science for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board of Social Work or Board of Behavioral Science no later than 4:30 p.m. on February 1, 2022. Comments should be directed to:

Tony Alden  
Professional Licensure Division  
Iowa Department of Public Health  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.281.4401  
Fax: 515.281.3121  
Email: [tony.alden@idph.iowa.gov](mailto:tony.alden@idph.iowa.gov)

*Public Hearing*

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

February 1, 2022  
9 to 10 a.m.

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

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 31.2(6) as follows:

**31.2(6)** The candidate for permanent licensure shall submit the required attestation of supervision forms documenting clinical experience for marital and family therapy and for mental health counseling

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

as required in ~~rule 645—31.5(154D) for marital and family therapy and rule 645—31.7(154D) for mental health counseling.~~

ITEM 2. Amend subrule 31.2(7) as follows:

**31.2(7)** The candidate for temporary licensure for the purpose of fulfilling the postgraduate supervised clinical experience requirement must submit ~~the Supervised Clinical Experience: Approval and Attestation form~~ a supervision plan to the board and receive approval of the candidate's supervisor(s) prior to licensure. ~~The temporary licensee must notify the board immediately in writing of any proposed change in supervisor(s) and obtain approval of any change in supervisor(s).~~ Within 30 days of completion of the supervised clinical experience, the attestation of the completed supervised experience must be submitted to the board office. The temporary licensee shall remain under supervision until a permanent license is issued.

ITEM 3. Rescind and reserve rule **645—31.5(154D)**.

ITEM 4. Rescind rule 645—31.7(154D) and adopt the following new rule in lieu thereof:

**645—31.7(154D) Supervised clinical experience.** An applicant for licensure as a mental health counselor or marital and family therapist must complete a supervised clinical experience as set forth in this rule.

**31.7(1) Minimum requirements.** The supervised clinical experience must satisfy all of the following requirements:

*a. Timing.* The supervised clinical experience cannot begin until after all graduate coursework has been completed with the exception of the thesis.

*b. Duration.* The supervised clinical experience must be for a minimum of two years.

*c. Minimum number of hours.* The supervised clinical experience must consist of at least 3,000 hours of practice.

*d. Minimum number of direct client hours.* The supervised clinical experience must consist of at least 2,000 hours of direct client contact.

*e. Minimum number of direct supervision hours.* The supervised clinical experience must consist of at least 110 hours of direct supervision equitably distributed throughout the supervised clinical experience, including at least 24 hours of live or recorded direct observation of client interaction. A maximum of 50 hours of direct supervision may be obtained through group supervision. Direct supervision can occur in person or by using videoconferencing. After 110 hours of direct supervision are complete, ongoing direct supervision must continue to occur for the remainder of the supervised clinical experience.

*f. Number of supervisors.* A supervisee may utilize a maximum of four supervisors at any given time. A supervisee is responsible for notifying each supervisor if another supervisor is also being utilized to allow for coordination as appropriate.

*g. Number of supervisees.* A supervisor shall determine the number of supervisees who can be supervised safely and competently and shall not exceed that number.

*h. Content.* The supervised clinical experience must involve performing psychosocial assessments, diagnostic practice using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM), and providing treatment, including the establishment of treatment goals, psychosocial therapy using evidence-based therapeutic modalities, and differential treatment planning. The supervised clinical experience must prepare the supervisee for independent practice and must include training on practice management, ethical standards, legal and regulatory requirements, documentation, coordination of care, and self-care.

**31.7(2) Eligible supervisors.** A supervisor must satisfy all of the following requirements:

*a.* A supervisor must hold an active license as an independent level social worker, mental health counselor, or marital and family therapist in Iowa.

*b.* A supervisor must have a minimum of three years of independent practice.

*c.* A supervisor must have completed at least a six-hour continuing education course in supervision or one graduate-level course in supervision.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*d.* A supervisor must be knowledgeable of the applicable ethical code and licensing rules governing the supervisee.

**31.7(3) *Supervision plan.*** Prior to beginning supervision, the supervisee must submit a written supervision plan to the board using the current form published by the board. The supervisee must also submit a written supervision plan to the board prior to beginning supervision with a new supervisor.

**31.7(4) *Supervision report.*** When supervision is complete, or when a supervisor ceases providing supervision to the supervisee, the supervisee must ensure a completed supervision report using the current form published by the board is submitted to the board. If the supervisor reports that the supervisee is not adequately prepared for independent licensure, or reports violations of the board's rules or applicable ethical code, the board may require the supervisee to complete additional supervision or training as deemed appropriate prior to licensure.

**31.7(5) *Supervised clinical experience in other states.*** An applicant who completed some or all of the supervised clinical experience in another state without obtaining licensure in that state should contact the board to determine whether some or all of the supervised clinical experience that has been completed can be used to qualify for licensure in Iowa.

ITEM 5. Rescind rule 645—280.6(154C) and adopt the following **new** rule in lieu thereof:

**645—280.6(154C) Supervised clinical experience.** An applicant for licensure as an independent level social worker must complete a supervised clinical experience as set forth in this rule.

**280.6(1) *Minimum requirements.*** The supervised clinical experience must satisfy all of the following requirements:

*a. Timing.* The supervised clinical experience cannot begin until after licensure as a master level social worker.

*b. Duration.* The supervised clinical experience must be for a minimum of two years.

*c. Minimum number of hours.* The supervised clinical experience must consist of at least 3,000 hours of practice.

*d. Minimum number of direct client hours.* The supervised clinical experience must consist of at least 2,000 hours of direct client contact.

*e. Minimum number of direct supervision hours.* The supervised clinical experience must consist of at least 110 hours of direct supervision equitably distributed throughout the supervised clinical experience, including at least 24 hours of live or recorded direct observation of client interaction. A maximum of 50 hours of direct supervision may be obtained through group supervision. Direct supervision can occur in person or by using videoconferencing. After 110 hours of direct supervision are complete, ongoing direct supervision must continue to occur for the remainder of the supervised clinical experience.

*f. Number of supervisors.* A supervisee may utilize a maximum of four supervisors at any given time. A supervisee is responsible for notifying each supervisor if another supervisor is also being utilized to allow for coordination as appropriate.

*g. Number of supervisees.* A supervisor shall determine the number of supervisees who can be supervised safely and competently and shall not exceed that number.

*h. Content.* The supervised clinical experience must involve performing psychosocial assessments, diagnostic practice using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM), and providing treatment, including the establishment of treatment goals, psychosocial therapy using evidence-based therapeutic modalities, and differential treatment planning. The supervised clinical experience must prepare the supervisee for independent practice and must include training on practice management, ethical standards, legal and regulatory requirements, documentation, coordination of care, and self-care.

**280.6(2) *Eligible supervisors.*** A supervisor must satisfy all of the following requirements:

*a.* A supervisor must hold an active license as an independent level social worker, mental health counselor, or marital and family therapist in Iowa.

*b.* A supervisor must have a minimum of three years of independent practice.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

c. A supervisor must have completed at least a six-hour continuing education course in supervision or one graduate-level course in supervision.

d. A supervisor must be knowledgeable of the applicable ethical code and licensing rules governing the supervisee.

**280.6(3) *Supervision plan.*** Prior to beginning supervision, the supervisee must submit a written supervision plan to the board using the current form published by the board. The supervisee must also submit a written supervision plan to the board prior to beginning supervision with a new supervisor.

**280.6(4) *Supervision report.*** When supervision is complete, or when a supervisor ceases providing supervision to the supervisee, the supervisee must ensure a completed supervision report using the current form published by the board is submitted to the board. If the supervisor reports that the supervisee is not adequately prepared for independent licensure, or reports violations of the board's rules or applicable ethical code, the board may require the supervisee to complete additional supervision or training as deemed appropriate prior to licensure.

**280.6(5) *Supervised clinical experience in other states.*** An applicant who completed some or all of the supervised clinical experience in another state without obtaining licensure in that state should contact the board to determine whether some or all of the supervised clinical experience completed can be used to qualify for licensure in Iowa.

**ARC 6141C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to the emergency vehicle certificate and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 451, "Emergency Vehicle Permits," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.16 and 321.451.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 321.16, 321.231 and 321.451.

*Purpose and Summary*

This proposed rule making relates to Chapter 451, which allows for the designation of a privately owned vehicle as an authorized emergency vehicle pursuant to Iowa Code section 321.451. The proposed amendments align with existing legal authority and Department practice and eliminate outdated or irrelevant requirements or options.

The following paragraphs further explain the proposed amendments:

- The title of the chapter is revised to reference emergency vehicle certificates rather than emergency vehicle permits, which more closely aligns with the terminology used in the Iowa Code.
- Updates are made throughout the chapter to correct contact and application submission information for emergency vehicle certificates and to specify that emergency vehicle certificate denial notices are served by first-class mail as permitted by Iowa Code section 321.16.
- Subrule 451.2(3) is amended in order to address the limitations of the emergency vehicle certificate to align with Iowa Code section 321.231. This amendment also clarifies what constitutes a scene of emergency for the purposes of a towing or recovery vehicle displaying illuminated emergency lights, because the current rule language is not clear regarding what qualifies as a scene of emergency.

TRANSPORTATION DEPARTMENT[761](cont'd)

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa because there is no fee associated with obtaining an emergency vehicle certificate and this rule making will not cause the Department to issue any more or any fewer certificates.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 1, 2022. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Government and Community Relations  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

*Public Hearing*

If requested, a public hearing to hear oral presentations will be held on February 3, 2022, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on February 1, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend **761—Chapter 451**, title, as follows:

EMERGENCY VEHICLE PERMITS CERTIFICATE

## TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 2. Amend rule 761—451.1(321) as follows:

**761—451.1(321) Information.** Information about certificates of designation for authorized emergency vehicles is available ~~from the office of vehicle and motor carrier services. The address is: Office of Vehicle and Motor Carrier Services,~~ by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3110; by email at [vscusto@iowadot.us](mailto:vscusto@iowadot.us); or on the department's website at [www.iowadot.gov](http://www.iowadot.gov).

This rule is intended to implement Iowa Code sections 321.2 and 321.3.

ITEM 3. Amend rule 761—451.2(321) as follows:

**761—451.2(321) Authorized emergency vehicle certificate.**

**451.2(1) Application.** Application for a certificate which designates a privately owned vehicle as an authorized emergency vehicle shall be submitted to the ~~office of vehicle and motor carrier services on a vehicle division in the form and manner~~ prescribed by the department. The department shall deny an application if the ~~department~~ applicant does not establish for the department that the vehicle will be used as an authorized emergency vehicle, as described in Iowa Code section 321.451, or that the vehicle does not otherwise demonstrate necessity for the designation.

**451.2(2)** No change.

**451.2(3) Limitation.** ~~A certificate issued to a towing or recovery vehicle is valid only when the vehicle is at the scene of an emergency, unless otherwise authorized by a law enforcement officer. In addition to the provisions of Iowa Code section 321.231(2), a towing or recovery vehicle with a valid certificate of designation may only display illuminated emergency lights in one of the following circumstances:~~

*a.* When the vehicle is at the scene of an emergency, which includes an incident dangerous to the public or roadside operations where increased visibility will mitigate risk of traffic hazards.

*b.* When otherwise authorized by a law enforcement officer.

This rule is intended to implement Iowa Code ~~section~~ sections 321.231 and 321.451.

ITEM 4. Amend rule 761—451.3(17A,321) as follows:

**761—451.3(17A,321) Application denial or certificate revocation.**

**451.3(1)** No change.

**451.3(2)** The department shall send notice by certified mail to a person whose certificate of designation is to be revoked ~~or denied~~. The department shall send notice by first-class mail when an application is denied. The notice shall be mailed to the person's mailing address as shown on departmental records, and the revocation or denial shall become effective 20 days from the date mailed. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request shall be submitted in writing to the director of the ~~office of vehicle and motor carrier services~~ vehicle division. The request shall be deemed timely submitted if it is delivered or postmarked on or before the effective date specified in the notice of revocation or denial.

This rule is intended to implement Iowa Code chapter 17A and sections 321.13, 321.16, 321.231 and 321.451.

**ARC 6134C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed Emergency After Notice**

**Rule making related to downtown loan guarantee program**

The Economic Development Authority hereby rescinds Chapter 36, “Film, Television, and Video Project Promotion Program,” and adopts a new Chapter 36, “Downtown Loan Guarantee Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.431.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15.431.

*Purpose and Summary*

Pursuant to Iowa Code section 15.431, the Authority shall establish a Downtown Loan Guarantee Program. The purpose of the program is to encourage Iowa downtown businesses and banks to reinvest and reopen following the COVID-19 pandemic.

The loan guarantee is available to businesses that are eligible for a downtown resource center community catalyst building remediation grant or main street Iowa challenge Grant. The project must include a housing component and meet downtown resource center and main street Iowa design review criteria. Authority staff, in conjunction with Iowa Finance Authority staff, will review applications and make a recommendation as to whether an application should be approved and, if so, the guarantee percentage. The Authority Director may approve, deny, or defer an application.

This new chapter replaces the current chapter relating to the Film, Television, and Video Promotion Program. The program was repealed in 2012.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 5984C**. No public comments were received. Two changes from the Notice have been made. References to 2021 Iowa Acts, Senate File 619, have been removed in rule 261—36.1(15) and the chapter implementation sentence since the legislation has been codified.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Authority finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on December 17, 2021, because the rule making implements a new loan guarantee program for the benefit of Iowa downtown businesses.

*Adoption of Rule Making*

This rule making was adopted by the Authority Board on December 17, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making became effective on December 17, 2021.

The following rule-making action is adopted:

Rescind 261—Chapter 36 and adopt the following **new** chapter in lieu thereof:

CHAPTER 36  
DOWNTOWN LOAN GUARANTEE PROGRAM

**261—36.1(15) Purpose.** Pursuant to Iowa Code section 15.431, the authority, in partnership with the Iowa finance authority, shall establish and administer a downtown loan guarantee program. The purpose of the program is to encourage Iowa downtown businesses and banks to reinvest and reopen following the COVID-19 pandemic.

**261—36.2(15) Definitions.**

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Authority’s website*” means the information and related content found at [www.iowaeda.com](http://www.iowaeda.com) and may include integrated content at affiliate sites.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Borrower*” means a business that is approved for a loan by a lender and that has applied for assistance under the program.

“*Director*” means the director of the authority.

“*Iowa finance authority*” means the public instrumentality and agency of the state created by Iowa Code section 16.1A.

“*Lender*” means a federally insured financial lending institution that issued a loan to a borrower.

“*Program*” means the downtown loan guarantee program established pursuant to this chapter.

**261—36.3(15) Eligibility.** To be eligible for approval of a loan guarantee, a borrower must demonstrate that all of the following conditions are met:

**36.3(1)** The loan finances an eligible downtown resource center community catalyst building remediation grant project or main street Iowa challenge grant project within a designated district. A borrower does not need to receive a grant to be eligible for a loan guarantee under the program, but a borrower and proposed project must meet all eligibility criteria for either the community catalyst building remediation grant or main street Iowa challenge grant.

**36.3(2)** The loan finances a rehabilitation project, or finances acquisition or refinancing costs associated with the project.

**36.3(3)** At least 25 percent of the project costs are used for construction on the project or renovation.

**36.3(4)** The project includes a housing component.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**36.3(5)** The loan is used for construction of the project, permanent financing of the project, or both.

**36.3(6)** A federally insured financial lending institution issued the loan.

**36.3(7)** The loan does not reimburse the borrower for working capital, operations, or similar expenses.

**36.3(8)** The project meets downtown resource center and main street Iowa design review criteria.

**261—36.4(15) Application submittal and review process.**

**36.4(1)** The authority will develop a standardized application process and make information on applying available on the authority's website. To apply for assistance under the program, the borrower and lender shall submit an application to the authority in the manner prescribed by the authority. Applications will be accepted and processed by authority staff on a continuing basis, or the authority may establish application periods as announced on the authority's website.

**36.4(2)** Each application shall include, at a minimum, the following: name(s) and address(es) of the borrower and participating lender, amount of loan, amount of loan guarantee requested, and certification of compliance with state law and lending practices.

**36.4(3)** The authority may refuse to accept incomplete applications.

**36.4(4)** The authority may refuse to accept applications because of insufficient funds.

**36.4(5)** Authority staff, in conjunction with Iowa finance authority staff, will review applications and make a recommendation as to whether an application should be approved and the guarantee percentage. The director may approve, deny, or defer an application.

**36.4(6)** The authority reserves the right to deny a loan guarantee for unreasonable bank loan fees or interest rates.

**261—36.5(15) Loan guarantee limitations.**

**36.5(1)** For a loan amount less than or equal to \$500,000, the authority may guarantee up to 50 percent of the loan amount. For a loan amount greater than \$500,000, the authority may provide a maximum loan guarantee of up to \$250,000.

**36.5(2)** A project loan must be secured by a mortgage against the project property.

**36.5(3)** The authority may guarantee loans for up to five years. The authority may extend the loan guarantee for an additional five years if an underwriting review finds that an extension would be beneficial. Extensions are subject to approval by the director.

**36.5(4)** The loan must not be insured or guaranteed by another local, state, or federal guarantee program.

**36.5(5)** The loan guarantee is not transferable if the loan or the project is sold or transferred.

**36.5(6)** In the event of a loss due to default, the loan guarantee proportionally pays the guarantee percentage of the loss to the lender as established in the agreement executed pursuant to rule 261—36.7(15).

**261—36.6(15) Annual fee.** The lender shall pay an annual loan guarantee fee not to exceed 2 percent of the loan amount for the duration of the loan guarantee. The fee applicable to each approved loan guarantee will be established by the program agreement executed pursuant to rule 261—36.7(15).

**261—36.7(15) Agreement.** Upon approval of an award, authority staff shall prepare an agreement between the authority, the lender, and the borrower. The agreement, at a minimum, shall include the conditions of the award, including the applicable annual fee to be paid by the lender pursuant to rule 261—36.6(15), the responsibilities of each party, and the potential actions in instances of noncompliance.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**261—36.8(15) Reporting.** The borrower and lender shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly, or the governor's office.

These rules are intended to implement Iowa Code section 15.431.

[Filed Emergency After Notice 12/17/21, effective 12/17/21]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6123C**

**ACCOUNTANCY EXAMINING BOARD[193A]**

**Adopted and Filed**

**Rule making related to waivers and five-year review of rules**

The Accountancy Examining Board hereby amends Chapter 2, “Organization and Administration,” Chapter 3, “Certification of CPAs,” Chapter 4, “Licensure of LPAs,” Chapter 6, “Attest and Compilation Services,” Chapter 9, “Reciprocity and Substantial Equivalency,” Chapter 10, “Continuing Education,” and Chapter 18, “Licensees’ Duty to Report,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 542.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 17A.7 and 2020 Iowa Acts, House File 2389.

*Purpose and Summary*

The amendments to Chapters 2 and 10 bring the rules into compliance with 2020 Iowa Acts, House File 2389. Other amendments are in partial compliance with Iowa Code section 17A.7(2), which states that beginning July 1, 2012, over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules. The goal of the review is to identify and eliminate all rules that are outdated, redundant, or inconsistent or incompatible with statute or the agency’s rules or the rules of other agencies.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 5989C**. A public hearing was held on November 10, 2021, at 2 p.m. at the Professional Licensing Bureau Offices, 200 East Grand Avenue, Suite 350, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on December 9, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 193—Chapter 5.



## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 193A—2.7(17A,21,22,272C,542) as follows:

**193A—2.7(17A,21,22,272C,542) Uniform bureau rules.** Administrative and procedural rules which are common to all boards in the bureau can be found in the rules of the professional licensing and regulation bureau.

**2.7(1)** Persons seeking waivers ~~or variances~~ from board rules should review the uniform rules at 193—Chapter 5.

**2.7(2)** and **2.7(3)** No change.

**2.7(4)** Rules regarding denial of issuance or renewal of license or license suspension or revocation for nonpayment of child support, or debts owing to the state, ~~or student loans~~ appear at 193—Chapter 8.

**2.7(5)** to **2.7(9)** No change.

ITEM 2. Amend rule 193A—3.2(542) as follows:

**193A—3.2(542) Colleges or universities recognized by the board.** Iowa Code section 542.5, in providing for educational qualifications for a certificate as a certified public accountant, refers to colleges or universities “recognized by the board.” For such purpose, the board recognizes the following educational accrediting institutions accredited by the Association to Advance Collegiate Schools of Business and the regional accrediting bodies listed in the current publication of the Accredited Institutions of Post Secondary Education, which listing is made a part of these rules by reference.:

1. Middle States Commission on Higher Education (MSCHE);
2. Northwest Commission on Colleges and Universities (NWCCU);
3. Higher Learning Commission (HLC);
4. New England Commission of Higher Education (NECHE);
5. Southern Association of Colleges and Schools and Commission on Colleges (SACSCOC);
6. WASC Senior College and University Commission (WSCUC).

Alternatively, applicants may provide evidence of meeting equivalent accreditation requirements of the Higher Learning Commission (HLC).

This rule is intended to implement Iowa Code section 542.5.

ITEM 3. Amend subrule 3.14(2) as follows:

**3.14(2)** A candidate who meets the requirements for a certificate outlined in rule 193A—3.1(542) shall file an application for a certificate within three years of the date of passing the examination. If the candidate does not file an application for a certificate within the required time frame, the candidate must comply with the basic continuing education requirements outlined in rule 193A—10.5(542) prior to filing an application. The required continuing education hours shall include a minimum of eight hours of continuing education every three years devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates, and a minimum of four hours of continuing education devoted to professional ethics.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

ITEM 4. Amend subrule 4.7(4) as follows:

**4.7(4)** Alternatively, an applicant may satisfy the examination requirement of this rule by passing the Financial Accounting and Reporting—~~Business Enterprises and Accounting and Reporting—Taxation, Managerial, Governmental and Not for Profit Organization~~ Regulation sections of the CPA examination provided by the AICPA.

ITEM 5. Rescind subrules **4.8(1)** and **4.8(2)**.

ITEM 6. Renumber subrules **4.8(3)** and **4.8(4)** as **4.8(1)** and **4.8(2)**.

ITEM 7. Amend rule 193A—4.10(542) as follows:

**193A—4.10(542) Refunding of examination fees.** Examination fees will not be refunded except as provided by the rules concerning the refunding of examination fees to an examination candidate for a certified public accountant certificate outlined in ~~193A—3.10(542)~~ rule 193A—3.11(542).

ITEM 8. Amend subrule 6.2(2) as follows:

**6.2(2)** Experience shall include all of the following:

a. Experience in applying a variety of ~~auditing~~ attest procedures and techniques to the usual and customary financial transactions recorded in accounting records.

b. Experience in the preparation of ~~audit~~ attest working papers covering the examination of the accounts usually found in accounting records.

c. Experience in the planning of the program of ~~audit~~ attest work including the selection of the procedures to be followed.

d. and e. No change.

ITEM 9. Amend subrule 9.5(2) as follows:

**9.5(2)** A person who holds in good standing a certificate, license or designation from a foreign authority that is substantially equivalent to an Iowa CPA certificate shall be deemed qualified for an Iowa CPA certificate if the person satisfies all of the provisions of Iowa Code section 542.19(3). The burden is on the applicant to demonstrate that such certificate, license or foreign designation is in full force and effect and that the requirements for that certificate, license or foreign designation are comparable or superior to those required for a CPA certificate in this state. Original verification from the foreign authority which issued the certificate, license or designation shall be required to demonstrate that such certificate, license or designation is valid and in good standing. If the applicant cannot establish comparable or superior qualifications, the board shall require that the applicant pass the uniform certified public accountant examination designed to test the applicant's knowledge of practice in this state and country. If the applicant is a Canadian Chartered Accountant, Australian Chartered Accountant, Hong Kong CPA, Ireland Chartered Accountant, Mexico Contador Público Certificado (CPC), New Zealand Chartered Accountant, ~~or~~ Scottish Chartered Accountant, or South African Chartered Accountant, the applicant may be required to take the International Uniform CPA Qualification Examination (IQEX) in lieu of the uniform certified public accountant examination.

ITEM 10. Amend subrule 10.5(6) as follows:

**10.5(6)** The board shall have authority to make exceptions for reasons of individual hardship including health, certified by a medical doctor, military service, foreign residency, retirement, or other good cause. No exceptions shall be made solely because of age. Applicants entitled to a full or partial exception under the provisions of Iowa Code section ~~272C.2, subsection 4,~~ 272C.2(4) for active military service or government service outside of the United States may request an exception by submitting acceptable documentation as applicable to the exception requested. Applicants seeking an exception on other grounds of undue hardship must submit an application for waiver ~~or variance~~ as provided in 193—Chapter 5.

ITEM 11. Amend subrule 18.2(2) as follows:

**18.2(2)** When a licensee is a party to an adverse judgment resulting from a professional malpractice action or is a party to a settlement of a claim resulting from an allegation of malpractice, the licensee shall file a report in writing forwarded to the board office, setting forth the name and address of the client,

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

the date the claim was originally made, a brief description of the circumstances precipitating the claim and a copy of the judgment or settlement agreement resulting from the claim. ~~It is the intent of this rule to require the reporting of all judgments or settlements resulting from claims that were initiated by court action and not claims of malpractice that are made against a licensee that are not filed in a court of law.~~

[Filed 12/9/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6136C**

## **ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

### **Rule making related to STEM BEST appropriation**

The Economic Development Authority hereby adopts new Chapter 15, "STEM BEST Appropriation," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in 2021 Iowa Acts, House File 871.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 871.

#### *Purpose and Summary*

The STEM BEST Program is administered by the University of Northern Iowa (UNI) on behalf of the Iowa Governor's STEM Advisory Council. Pursuant to 2021 Iowa Acts, House File 871, \$700,000 is appropriated to the Authority for the program and the Authority is directed to adopt rules to establish criteria for the distribution of the appropriated funds.

The new Chapter 15 outlines the transfer of appropriated funds from the Authority to UNI. The chapter allows funds to be used for grant awards made in accordance with published guidance as well as program recruitment and applicant support.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 5983C**. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Authority Board on December 17, 2021.

#### *Fiscal Impact*

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

#### *Jobs Impact*

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making action is adopted:

Adopt the following **new** 261—Chapter 15:

CHAPTER 15  
STEM BEST APPROPRIATION

**261—15.1(89GA, HF871) Purpose.** The authority is directed to adopt rules to establish criteria for the distribution of funds appropriated in 2021 Iowa Acts, House File 871, section 3, subsection 11, to the STEM BEST program.

**261—15.2(89GA, HF871) Definitions.** As used in this chapter, unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Council*” means the Iowa governor’s STEM advisory council operated pursuant to Executive Order 74 dated July 26, 2011, and Executive Order 81 dated May 15, 2013.

“*Program administrator*” means the science, technology, engineering, and mathematics collaborative initiative established at the university of northern Iowa pursuant to Iowa Code section 268.7.

“*STEM BEST program*” or “*program*” means the grant program overseen by the council and program administrator to support curriculum development by K-12 schools and industry professionals to prepare students for careers in science, technology, engineering, or mathematics (STEM) or a related field.

**261—15.3(89GA, HF871) Eligible uses of funds.** Funds appropriated to the authority for the STEM BEST program shall be transferred to the program administrator to fund grant awards. Awards shall be made in accordance with program guidance established by the council and program administrator. The program guidance is published at [www.iowastem.org](http://www.iowastem.org). Funds may also be used for program recruitment and applicant support.

These rules are intended to implement 2021 Iowa Acts, House File 871.

[Filed 12/17/21, effective 2/16/22]

[Published 1/12/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6129C****EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed****Rule making related to license sanctions and response deadlines**

The Educational Examiners Board hereby amends Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 272.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 744.

*Purpose and Summary*

2021 Iowa Acts, House File 744, sets forth new criteria for the denial or revocation of a license based on discrimination against a student or employee in violation of provisions related to protected speech or intellectual freedom. An update to the rules is also needed to change the time period allowable to file a written response to a motion to match the Iowa Rules of Civil Procedure. This rule making implements these changes.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 6, 2021, as **ARC 5934C**. A public hearing was held on October 26, 2021, at 1 p.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing. No public comments were received. One change from the Notice has been made. Since the publication of the Notice, 2021 Iowa Acts, House File 744, has been codified. References in the rule making to House File 744 have been removed accordingly.

*Adoption of Rule Making*

This rule making was adopted by the Board on December 10, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

*Review by Administrative Rules Review Committee*

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

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 11.17(2) as follows:

**11.17(2)** Any party may file a written response to a motion within ~~ten~~ 15 days after the motion is served, unless the time period is extended or shortened by rules of the agency or the presiding officer.

ITEM 2. Adopt the following new paragraph **11.35(2)“c”**:

*c. Speech and intellectual freedom protections.* The board may deny a license to or revoke the license of a person upon the board’s finding by a preponderance of evidence that the person knowingly and intentionally discriminated against a student in violation of Iowa Code section 261H.2(3) or 279.73.

[Filed 12/13/21, effective 2/16/22]

[Published 1/12/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6130C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Adopted and Filed**

**Rule making related to fees for complaints and hearings involving administrator sanctions**

The Educational Examiners Board hereby amends Chapter 11, “Complaints, Investigations, Contested Hearings,” and Chapter 12, “Fees,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 272.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 868.

*Purpose and Summary*

2021 Iowa Acts, House File 868, directs the Board to establish fees for the administrative costs of processing complaints and conducting hearings when the respondent is an administrator and the final Board action results in a sanction. This rule making implements the legislation.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 6, 2021, as **ARC 5938C**. A public hearing was held on October 26, 2021, at 1 p.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing. No public comments were received. One change from the Notice has been made. Since the publication of the Notice, 2021 Iowa Acts, House File 868, has been codified. The reference in the rule making to House File 868 has been removed accordingly.

*Adoption of Rule Making*

This rule making was adopted by the Board on December 10, 2021.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 282—11.33(272) as follows:

**282—11.33(272) Methods of discipline.** The board has the authority to impose the following disciplinary sanctions:

1. Revoke a practitioner's license, certificate or authorization.
2. Suspend a practitioner's license, certificate or authorization until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, a practitioner from engaging in specified practices, methods, or acts.
4. Require additional education or training.
5. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
6. Issue a public letter of reprimand.
7. Order any other resolution appropriate to the circumstances of the case.
8. Impose fees as provided in Iowa Code section 272.2(24).

ITEM 2. Adopt the following **new** rule 282—12.10(272):

**282—12.10(272) Fees for processing complaints and conducting hearings.**

**12.10(1) Administrator licensure sanction.** If an administrator is a respondent in a complaint for violation of the code of professional conduct and ethics and the final board action results in a sanction, the administrator will be required to pay the fees that were related to processing the complaint and conducting the hearing. Such fees may include a fee for personal service by a sheriff, a fee for legal notice when placed in a newspaper, a fee for transcription service or court reporter fee, and other fees assessed as costs by the board.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

**12.10(2) *Timeline for payment and board order.*** Fees must be submitted to the board office within 45 days from the issuance of the letter outlining the required fees. Payment of fees may be imposed as a board order.

[Filed 12/13/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6128C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Adopted and Filed**

**Rule making related to endorsements**

The Educational Examiners Board hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," and Chapter 16, "Statements of Professional Recognition (SPR)," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 272.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 272.2.

*Purpose and Summary*

These amendments add STEM (science, technology, engineering, math) endorsements as an option to teach fifth- through eighth-grade algebra for high school credit and remove the requirement that the Iowa Reading Research Center approve the practicum placement for educators seeking the dyslexia endorsement. These amendments also eliminate outdated language and provide consistency for school social worker rules.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 6, 2021, as **ARC 5960C**. A public hearing was held on October 26, 2021, at 1 p.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing.

Eight public comments were received specific to the dyslexia endorsement. The comments were supportive of the rule making, and there was a request for two additional amendments. The requested amendments, reflected in Item 2, include requiring the Iowa Reading Research Center to review out-of-state applications and requiring preparation in more than one curriculum.

*Adoption of Rule Making*

This rule making was adopted by the Board on December 10, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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



## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **13.28(12)“c”** as follows:

*c.* *5-8 algebra for high school credit.* For a 5-8 algebra for high school credit endorsement, hold ~~either the a K-8 mathematics, or middle school mathematics, K-8 STEM, or 5-8 STEM endorsement and complete a college algebra or linear algebra class.~~ This endorsement allows the holder to teach algebra to grades 5-8 for high school credit.

ITEM 2. Amend subrule 13.28(36) as follows:

**13.28(36) Dyslexia specialist.** K-12. The applicant must have met the requirements for the standard license and have completed at least three years of post-baccalaureate teaching experience in a K-12 setting. Applicants who have achieved dyslexia certification in another state ~~prior to March 17, 2021,~~ may apply for a certification review through the Iowa reading research center.

*a. Authorization.* The holder of this endorsement is authorized to serve as a dyslexia specialist in kindergarten and grades 1 through 12.

*b. Content.* Completion of 18 semester hours in dyslexia strategies to include the following:

(1) and (2) No change.

(3) Curriculum and instruction. The dyslexia specialist will use appropriate instructional approaches and materials including preparation in more than one curriculum as well as integrated, comprehensive, explicit, and systematic literacy instruction to support student learning in reading and writing, including the following:

1. to 4. No change.

(4) No change.

(5) Practicum in dyslexia. The dyslexia specialist will participate in elementary and secondary practicum experiences with instructors who have experience with and are currently serving students who display characteristics of dyslexia. ~~The cooperating teacher must be approved by the Iowa reading research center.~~ The practicum must include:

1. to 4. No change.

ITEM 3. Amend subrule 16.6(2) as follows:

**16.6(2) Requirements.** ~~The special education director (or designee) of~~ An administrator for the area education agency or local education agency must submit an application a form to the board to request that the authorization be issued. The application must include:

*a.* An official transcript that reflects the master's degree in social work; ~~and~~

*b.* The licensed independent social worker (LISW) or licensed master social worker (LMSW) license issued by the Iowa board of social work; and

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

c. A statement of agreement verifying that the applicant will also maintain licensure with the board of social work while employed by or providing services to an accredited public or private school or area education agency.

[Filed 12/13/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6127C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Adopted and Filed**

**Rule making related to licensure renewal**

The Educational Examiners Board hereby amends Chapter 20, "Renewals," and Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 272.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 770.

*Purpose and Summary*

2021 Iowa Acts, House File 770, directs the Board to adopt rules to allow up to one-half of the units needed for licensure renewal to be earned through the successful completion of an individualized professional development plan. This rule making implements that legislation.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 6, 2021, as **ARC 5935C**. A public hearing was held on October 26, 2021, at 1 p.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on December 10, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **20.5(2)“f”** as follows:

*f.* ~~One unit~~ Three units may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator.

ITEM 2. Amend paragraph **20.6(2)“f”** as follows:

*f.* ~~One unit~~ Two units may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator, or one unit if the applicant holds a specialist's or doctor's degree.

ITEM 3. Amend paragraph **20.9(2)“e”** as follows:

*e.* ~~One unit~~ Two units may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator, or in the case of a superintendent, as verified by the school board president, or one unit if the applicant holds a specialist's or doctor's degree.

ITEM 4. Adopt the following **new** paragraph **27.5(2)“e”**:

*e.* Two units may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator, or one unit if the applicant holds a specialist's or doctor's degree.

[Filed 12/13/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6126C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Adopted and Filed**

**Rule making related to day limitation for substitute authorization holders**

The Educational Examiners Board hereby amends Chapter 22, “Authorizations,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 272.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 675.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*Purpose and Summary*

2021 Iowa Acts, House File 675, amends the day limitation for substitute authorization holders. This rule making implements that legislation.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 6, 2021, as **ARC 5937C**. A public hearing was held on October 26, 2021, at 1 p.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on December 10, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making action is adopted:

Amend rule 282—22.2(272), introductory paragraph, as follows:

**282—22.2(272) Substitute authorization.** A substitute authorization allows an individual to substitute in grades PK-12 for no more than ~~ten~~ 10 consecutive days in a 30-day period in one job assignment for a regularly assigned teacher who is absent, except in the driver's education classroom. A school district administrator may file a written request with the board for an extension of the ~~ten-day~~ 10-day limit in one job assignment in a 30-day period on the basis of documented need and benefit to the instructional program. The executive director or appointee will review the request and provide a written decision either approving or denying the request.

[Filed 12/13/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6125C****EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed****Rule making related to charter school administrator authorization**

The Educational Examiners Board hereby amends Chapter 22, “Authorizations,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 272.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 847.

*Purpose and Summary*

2021 Iowa Acts, House File 847, directs the Board to create a charter school administrator authorization. This rule making implements that legislation.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 6, 2021, as **ARC 5936C**. A public hearing was held on October 26, 2021, at 1 p.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing.

Four public comments were received asking for increased requirements for the authorization. Based on public comment, there are three changes from the Notice, which include creating an initial authorization, requiring abuse training for the initial authorization, and requiring ethics and evaluator training to move to the full authorization. In addition, the word “application” has been changed to “applicant” in paragraph 22.13(7)“b.”

*Adoption of Rule Making*

This rule making was adopted by the Board on December 10, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

*Review by Administrative Rules Review Committee*

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

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making action is adopted:

Adopt the following **new** rule 282—22.13(272):

**282—22.13(272) Charter school administrator authorization.**

**22.13(1) Authorization.** The charter school administrator authorization is only valid for service or employment as a charter school administrator.

**22.13(2) Application process.** Any person interested in the charter school administrator authorization shall submit an application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at [www.boee.iowa.gov](http://www.boee.iowa.gov).

**22.13(3) Specific requirements for the initial charter school administrator authorization.**

*a.* The applicant must complete the background check requirements set forth in rule 282—13.1(272).

*b.* The applicant must obtain a recommendation from an Iowa charter school governing board verifying that the organization wishes to hire the applicant as a charter school administrator.

*c.* The applicant must provide verification of completion of child and dependent adult abuse trainings as stated in 282—subrule 20.3(4).

**22.13(4) Validity—initial authorization.** The initial charter school administrator authorization is valid for one year. No Class B license or license based on executive director decision may be issued to an applicant holding the initial charter school administrator authorization. No additional endorsement areas may be added to the initial charter school administrator authorization, with the exception of evaluator approval.

**22.13(5) Renewal.** The initial charter school administrator authorization may be renewed once.

**22.13(6) Conversion.** The initial charter school administrator authorization may be converted to a charter school administrator authorization if the applicant has met the following:

*a.* Completion of an approved code of professional conduct and ethics training. The training must be completed after the issuance of the initial authorization and no more than three years prior to the date of application.

*b.* Completion of an approved evaluator course.

*c.* Recommendation from an Iowa charter school governing board verifying that the organization wishes to retain the applicant as a charter school administrator.

**22.13(7) Specific requirements for the charter school administrator authorization.**

*a.* The charter school administrator authorization is valid for five years. No Class B license or license based on executive director decision may be issued to an applicant holding the charter school administrator authorization. No additional endorsement areas may be added to the charter school administrator authorization, with the exception of evaluator approval.

*b.* An applicant for this authorization must first meet the requirements for the initial charter school administrator authorization.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

c. An applicant for renewal of the charter school administrator authorization must provide verification of completion of child and dependent adult abuse trainings as stated in 282—subrule 20.3(4).

**22.13(8) Revocation and suspension.** Criteria of the professional practice and rules of the board of educational examiners shall be applicable to holders of the initial charter school administrator authorization and charter school administrator authorization.

[Filed 12/13/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6147C**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Adopted and Filed**

**Rule making related to waste tire management**

The Environmental Protection Commission (Commission) hereby amends Chapter 116, "Registration of Waste Tire Haulers," and Chapter 117, "Waste Tire Management," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 455D.11(7) and 455D.11I(7).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 455D.11A(5) and 455D.11I(6) and 2021 Iowa Acts, House File 560.

*Purpose and Summary*

Chapters 116 and 117 collectively establish standards for the proper management of waste tires. Specifically, the rules set forth requirements for the disposal, collection, storage, processing, and beneficial use of waste tires. They also require permits, require the registration of waste tire haulers, and dictate certain industry fees.

The purpose of this rule making is to align Chapters 116 and 117 with their recently amended authorizing statutes. Iowa Code sections 455D.11A(5) and 455D.11I(6) as amended by 2021 Iowa Acts, House File 560, made several substantive changes to the waste tire program. The following amendments are adopted, consistent with the legislation:

- Remove pre-1998 financial assurance requirements;
- Increase the amount of financial assurance from \$.35 to \$2.50 for each tire stored by a waste tire collector and from \$.85 to \$2.50 for each tire held for more than three days by a waste tire processor; and
- Change the bond amount required for waste tire haulers from \$10,000 to \$150,000.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 8, 2021, as **ARC 5902C**. A public hearing was held on September 28, 2021, at 9 a.m. via video/conference call. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

*Adoption of Rule Making*

This rule making was adopted by the Commission on December 21, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department of Natural Resources (Department) upon request.

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 116.6(1) as follows:

**116.6(1)** An application for registration or renewal shall not be approved by the department until the waste tire hauler has provided a bond in the sum of a minimum of ~~\$10,000~~ \$150,000 on a form prescribed by the commissioner of insurance.

ITEM 2. Amend subrule 117.7(2) as follows:

**117.7(2)** *Financial assurance amounts required.*

*a.* Waste tire stockpile sites shall have financial assurance coverage equal to ~~35 cents~~ \$2.50 per waste tire collected and stored ~~prior to July 1, 1998, and 85 cents per waste tire collected and stored on or after July 1, 1998.~~

~~*b.* If the owner or operator of a waste tire stockpile does not have adequate records to determine the time frame within which waste tire inventories were initially collected, then financial assurance amounts shall be determined by allocating the number of tires stored proportionally between the time period the facility has operated before and after July 1, 1998.~~

*e. b.* Waste tire processing sites shall have financial assurance coverage equal to ~~85 cents~~ \$2.50 per waste tire stored above the permitted three-day processing capacity, in accordance with 117.6(3) "*b.*"

[Filed 12/21/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.



**ARC 6135C****LABOR SERVICES DIVISION[875]****Adopted and Filed****Rule making related to boiler and pressure vessel codes**

The Boiler and Pressure Vessel Board hereby amends Chapter 90, “Administration of the Boiler and Pressure Vessel Program,” and Chapter 91, “General Requirements for All Objects,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 89.14.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 89.

*Purpose and Summary*

These amendments adopt by reference the most recent versions of national consensus codes pertaining to boilers and pressure vessels. The adoption of new codes is due to significant changes regarding the design, manufacture, installation, and inspection requirements. Due to the quantity and wide range of the revisions, please contact the Division of Labor Services with any specific questions about the revisions.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 5979C**. No public comments were received.

The February 15, 2022, date, which appeared five times in the Notice, was changed to February 16, 2022, and references to “reinstallations” in subrules 91.1(3) through 91.1(7) and 91.1(9) through 91.1(11) were removed since the references were stricken in **ARC 5977C**, IAB 10/20/21.

*Adoption of Rule Making*

This rule making was adopted by the Board on December 16, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 81.

*Review by Administrative Rules Review Committee*

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

LABOR SERVICES DIVISION[875](cont'd)

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 90.6(1) as follows:

**90.6(1) General.** All boilers and unfired steam pressure vessels covered by Iowa Code chapter 89 shall be inspected according to the requirements of the National Board Inspection Code ~~(2019)~~ (2021), which is hereby adopted by reference. A division inspector or special inspector must perform the inspections.

ITEM 2. Amend subrule 91.1(1) as follows:

**91.1(1) ASME boiler and pressure vessel codes adopted by reference.** The ASME Boiler and Pressure Vessel Code ~~(2019)~~ (2021) is adopted by reference. Regulated objects shall be designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code ~~(2019)~~ (2021) except for objects that meet one of the following criteria:

*a. to d.* No change.

ITEM 3. Amend subrules 91.1(3) to 91.1(5) as follows:

**91.1(3) Inspection code adopted by reference.** The National Board Inspection Code ~~(2019)~~ (2021) is adopted by reference, and installations, alterations, and repairs after ~~April 15, 2020~~ February 16, 2022, shall comply with it.

**91.1(4) Electric code adopted by reference.** The National Electrical Code, NFPA 70 (2020), is adopted by reference, and installations after April 15, 2020, shall comply with it.

**91.1(5) Piping codes adopted by reference.** The Power Piping Code, ASME B31.1 ~~(2018)~~ (2020), and the Building Services Piping Code, ASME B31.9 ~~(2017)~~ (2020), are adopted by reference, and installations after ~~April 15, 2020~~ February 16, 2022, shall comply with them up to and including the first valve.

ITEM 4. Amend subrules 91.1(7) to 91.1(9) as follows:

**91.1(7) Mechanical code adopted by reference.** Excluding Section 701.1, Chapters 2 and 7 of the International Mechanical Code (IMC) ~~(2018)~~ (2021) are adopted by reference, and installations after ~~September 1, 2018~~ February 16, 2022, shall comply with them.

**91.1(8) Oil burning equipment code adopted by reference.** National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31 ~~(2016)~~ (2020), is adopted by reference, and installations after ~~September 1, 2018~~ February 16, 2022, shall comply with it.

**91.1(9) Fuel gas code adopted by reference.** National Fire Protection Association National Fuel Gas Code, NFPA 54 ~~(2018)~~ (2021), is adopted by reference, and installations after ~~September 1, 2018~~ February 16, 2022, shall comply with it.

[Filed 12/17/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6137C**

**LAW ENFORCEMENT ACADEMY[501]**

**Adopted and Filed**

**Rule making related to jailer training**

The Law Enforcement Academy hereby amends Chapter 1, "Organization and Administration," and Chapter 2, "Minimum Standards for Iowa Law Enforcement Officers"; rescinds Chapter 4, "Instructor Certification Criteria for Approved Regional Law Enforcement Training Facilities," and adopts a new Chapter 4, "Instructor Certification Criteria for the Training of Peace Officers, Reserve

## LAW ENFORCEMENT ACADEMY[501](cont'd)

Officers, Jailers and Public Safety Telecommunicators”; amends Chapter 7, “Public Records and Fair Information Practices”; rescinds Chapter 9, “Jailer Training,” and adopts a new Chapter 9 with the same title; rescinds Chapter 10, “Reserve Peace Officers,” and adopts a new Chapter 10 with the same title; and amends Chapter 11, “Salvage Vehicle Theft Examinations,” and Chapter 13, “Public Safety Telecommunicator Training Standards,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 80B.11, 80B.11A, 80B.11C, 80D.3, 80D.4 and 321.52.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 80B and 80D and 2021 Acts, Senate File 230.

*Purpose and Summary*

The Iowa Law Enforcement Academy, in consultation with the Iowa Department of Corrections, the Iowa State Sheriffs and Deputies Association and the Iowa Peace Officers Association, has updated the requirements and standards for jailer training. These amendments include formalizing topics for jailer instruction and changing how the Academy certifies instructors for the training of jailers, peace officers and public safety communicators. Additionally, the Academy adopted amendments to the Peace Officer Reserve Program to provide more guidance to agencies as the Academy introduces its online reserve training program. The amendments to Chapter 11 are in response to the change in the definition of “wrecked or salvage vehicle” made by 2021 Iowa Acts, Senate File 230.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 6, 2021, as **ARC 5962C**.

The Academy received two comments. The first comment addressed the proposed amendments to add the Minnesota Multiphasic Personality Inventory-2-Restructured Form (MMPI-2-RF) and the Minnesota Multiphasic Personality Inventory-3 (MMPI-3) to the approved list of psychological tests that peace officers must take. The second comment addressed the proposed amendments to the requirements for instructor certification and the new certification requirements for online vendors.

Changes from the Notice have been made. After reviewing the submitted comments, the Academy made changes to the requirements for instructor certification and did not adopt the proposed rule setting the requirements for online vendor certification. The Academy did not adopt the proposed addition of the MMPI-2-RF and the MMPI-3 to the list of approved psychological tests.

*Adoption of Rule Making*

This rule making was adopted by the Academy on December 2, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

## LAW ENFORCEMENT ACADEMY[501](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Academy Council for a waiver of the discretionary provisions, if any, pursuant to 501—Chapter 16.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule **501—1.1(80B)**, definition of “General jailer instructors,” as follows:

~~“General jailer instructors” will be those instructing in subjects clearly related to the operation of a jail~~ means peace officers, jailers, jail administrators or public safety telecommunicators instructing in subjects relevant to their profession.

ITEM 2. Rescind the definitions of “Guest lecturer,” “Professional jailer instructors” and “Recognized expert” in rule **501—1.1(80B)**.

ITEM 3. Adopt the following **new** definition of “Subject matter expert” in rule **501—1.1(80B)**:

*“Subject matter expert”* means those instructors responsible for a subject requiring a specialized academic degree, certification, licensure or experience.

ITEM 4. Amend subrule 2.1(9) as follows:

**2.1(9)** Has an uncorrected vision of not less than 20/100 in both eyes, corrected to 20/20. ~~Has, and~~ has color vision consistent with the occupational demands of law enforcement.

*a.* Passing any of the following color vision tests indicates that the applicant has color vision abilities consistent with the occupational demands of law enforcement:

(1) Pseudoisochromatic plates tests such as but not limited to: Tokyo Medical College, Ishihara, Standard Pseudoisochromatic Plates, Dvorine, American Optical HRR Plates, American Optical.

(2) Panel tests such as:

Farnsworth Dichotomous D-15 Test or any other test designed and documented to identify extreme anomalous trichromatic, dichromatic or monochromatic color vision.

*b.* Color corrective lenses may not be used by an applicant during the testing process pursuant to the American College of Occupational and Environmental Medicine (ACOEM) Guidance for the Medical Evaluation of Law Enforcement Officers.

*c.* Individuals with extreme anomalous trichromatism or monochromasy color vision, as determined through testing, are not eligible to be hired as law enforcement officers in the state of Iowa.

ITEM 5. Amend rule 501—2.2(80B), introductory paragraph, as follows:

**501—2.2(80B) Mandatory psychological testing and administrative procedures.** In no case shall any person be selected or appointed as a law enforcement officer unless that person has performed satisfactorily in preemployment cognitive or ~~personality~~ psychological tests, or both, prescribed by the Iowa law enforcement academy.

ITEM 6. Amend subrule 2.2(2) as follows:

**2.2(2)** *Required ~~personality~~ psychological test.*

## LAW ENFORCEMENT ACADEMY[501](cont'd)

*a.* The Minnesota Multiphasic Personality Inventory 2 (MMPI-2) test shall be taken by all applicants in the final selection process for a law enforcement position.

*b.* The prescribed ~~personality~~ psychological test for an applicant in the final selection process shall be administered, scored and interpreted by the academy or by an individual who has been approved by the academy. The prescribed ~~personality~~ psychological test for an applicant in the final selection process shall be evaluated by the Iowa law enforcement academy. These tests shall be evaluated and test results and evaluations shall be forwarded to a law enforcement agency for selection purposes only by the Iowa law enforcement academy upon proper waiver by the applicant.

ITEM 7. Amend paragraph **2.2(3)“c”** as follows:

*c.* The administration of the ~~Stanard & Associates’ National Police Officer Selection Test (POST) POST test~~ and the ~~Minnesota Multiphasic Personality Inventory 2 (MMPI-2) MMPI-2~~ shall be in accordance with directions of the Iowa law enforcement academy.

ITEM 8. Amend subrule 2.2(5) as follows:

**2.2(5) *Personality Psychological tests.***

*a.* Those law enforcement agencies which choose to administer, score, or interpret the MMPI-2 without using the academy’s testing services shall forward to the academy psychological testing information on any individual hired within 14 days of the date hired. Such information shall include, but not be limited to, all scores from MMPI-2 scales used in the evaluation, the MMPI-2 answer sheet, and any resulting reports.

*b.* The ~~Minnesota Multiphasic Personality Inventory 2 (MMPI-2) MMPI-2~~ test may be administered to applicants who are not in the final selection process.

ITEM 9. Amend paragraph **2.2(7)“b”** as follows:

*b.* Forwarding of ~~Minnesota Multiphasic Personality Inventory 2 (MMPI-2) MMPI-2~~ test results. The evaluation by the Iowa law enforcement academy of ~~Minnesota Multiphasic Personality Inventory 2 MMPI-2~~ tests will be available to any prospective employing agency upon request and proper waiver by the applicant for a minimal handling fee.

ITEM 10. Amend paragraph **2.2(8)“a”** as follows:

*a.* The Iowa law enforcement academy evaluations of the ~~Minnesota Multiphasic Personality Inventory 2 MMPI-2~~ may only be used for 12 months to comply with these testing rules. Any applicant who has not been hired or placed upon a civil service certified list within 12 months of taking the ~~Minnesota Multiphasic Personality Inventory 2 MMPI-2~~ test must retake the examination and, before the applicant is hired, the results of the examination must be considered by the hiring authority.

ITEM 11. Rescind 501—Chapter 4 and adopt the following **new** chapter in lieu thereof:

#### CHAPTER 4

#### INSTRUCTOR CERTIFICATION CRITERIA FOR THE TRAINING OF PEACE OFFICERS, RESERVE OFFICERS, JAILERS AND PUBLIC SAFETY TELECOMMUNICATORS

#### **501—4.1(80B,80D) Instructors for the training of peace officers, reserve officers, jailers and public safety telecommunicators.**

**4.1(1) *Instructor designation.*** All instructors will be designated as either general or a subject matter expert (SME). General instructors will be peace officers, jailers, jail administrators or public safety telecommunicators instructing in subjects relevant to their profession. Subject matter expert instructors will be those instructing subjects in the areas requiring a specialized academic degree, certification, licensure or experience. Final decision as to whether an instructor is in the general or SME area rests with the academy council or the academy director.

**4.1(2) *Certification of instructors.*** All certification of instructors will be the responsibility of the academy council.

**4.1(3) *Request for instructional certification.***

## LAW ENFORCEMENT ACADEMY[501](cont'd)

*a.* All instructors requesting certification must submit this request to the academy council on an application which can be obtained from the Iowa law enforcement academy. Minimum qualifications for the certification of instructors (general and subject matter expert) apply to all applicants.

*b.* All applications for instructors must be submitted to the academy 20 days prior to a regularly scheduled academy council meeting. Any applications not received 20 days prior to a regularly scheduled meeting may not be considered and may be added to the agenda of the next subsequent meeting.

**4.1(4) *Instructor qualifications.*** Instructors will be certified on the basis of minimum qualifications in the areas of education, training, experience and background. The actual evaluation and selection of instructors will remain the responsibility of the administrator who is ultimately responsible for the instruction provided.

**4.1(5) *Granting or revocation of instructor certification.***

*a.* The granting of instructor certification will be determined by a vote of the academy council. The academy shall issue instructor certification to an applicant upon approval of the academy council. In the event of denial of instructor certification, the applicant may file a written notice of appeal to the academy council within 30 days of notification of the action. The appeal notice should be addressed to Director, Iowa Law Enforcement Academy, P.O. Box 130, Johnston, Iowa 50131. A hearing on this matter will be held by the academy council within 60 days of the receipt of the appeal notice.

*b.* All instructor certification will be issued for a period of three years. Once certified, an instructor is certified to instruct throughout the state. At the end of a three-year period, certification may be renewed if the instructor has maintained the training requirements for certification, has instructed in a certified training program during the three-year period, remains in good standing, and is recommended by the administrator under whose supervision the individual has instructed.

*c.* The certification may be revoked or suspended in writing at the discretion of the academy council or the academy director subject to subsequent council review. In the event of denial of recertification or revocation of certification, the certificate holder may file a written notice of appeal to the academy council within 30 days of notification of the action. The appeal notice should be addressed to Director, Iowa Law Enforcement Academy, P.O. Box 130, Johnston, Iowa 50131. A hearing on this matter will be held by the academy council within 60 days of the receipt of the appeal notice.

*d.* Good standing determination is in the sole discretion of the academy council or academy director subject to subsequent council review. A person who has been dismissed for good cause from previous employment; who leaves, who voluntarily quits, or whose position is eliminated when disciplinary action was imminent or pending that could have resulted in removal for good cause as defined in rule 501—1.1(80B); or who is currently involved in the decertification process shall not be considered in good standing.

**4.1(6) *Responsibility for ensuring instructional excellence.*** It is the continuing responsibility of the administrator who is ultimately responsible for the instruction provided to ensure that the instructors are assigned only topics that they are qualified to teach and are supervised on a regular basis to ensure that instructional excellence is maintained.

**4.1(7) *Endorsement of application for instructor certification.*** Applications for instructor (general or subject matter expert) certification will be endorsed by the administrator who is ultimately responsible for the instruction provided and, where applicable, by the applicant's department head.

**501—4.2(80B,80D) Minimum qualifications for certification of instructor (general).**

**4.2(1) *Experience and training.*** The following are minimum experience and training requirements that an instructor (general) must meet in order to become certified:

*a.* A minimum of three years' certified experience (peace officer, jailer or public safety telecommunicator) with a majority portion of this experience in the subject area to be instructed; and

*b.* Successful completion of an instructor training course consisting of a minimum of 16 hours of instruction or have provided a minimum of 60 hours of instruction within the past three years and be able to verify the same upon request.

**4.2(2) *Specific requirements to instruct specialized areas.*** Special training or valid certification is required to instruct certain subject areas, including but not limited to those listed below:

## LAW ENFORCEMENT ACADEMY[501](cont'd)

- a. *Arson and bombing instructor.* Must have attended a specialty school in police/military explosives handling and a recognized arson school.
- b. *Collision investigation instructor.* Must have successfully completed a two-week collision investigation school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.
- c. *Defensive tactics instructor.* Must have successfully completed a defensive tactics instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.
- d. *Fingerprint instructor.* Must have successfully completed the basic and advanced Federal Bureau of Investigation fingerprint schools or a program approved by the Iowa law enforcement academy.
- e. *Firearms instructor.* Must have successfully completed a firearms instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.
- f. *Iowa law enforcement emergency care provider instructor.* Must be certified as an ILEECBP by the Iowa law enforcement academy or maintain current emergency medical care provider, or higher level of medical certification.
- g. *Less lethal and chemical munitions instructor.* Must have attended a school recognized by the Iowa law enforcement academy in less lethal and chemical munitions.
- h. *OWI/implied consent and standardized field sobriety test (SFST) instructor.* Must have successfully completed a standardized field sobriety test instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.
- i. *Precision driving instructor.* Must have successfully completed a precision driving instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.

**501—4.3(80B,80D) Minimum qualifications for certification (subject matter expert).** The following are minimum experience and training requirements that an instructor (subject matter expert) must meet in order to become certified:

- 4.3(1) Experience.** Must have a minimum of three years' experience in the subject area to be instructed; and
- 4.3(2) Education.** Must have at least a baccalaureate degree in the subject area or related field unless further education is required or a current license or certification in the subject area; and
- 4.3(3) Background.** Must be recommended by the administrator who is ultimately responsible for the instruction provided who shall consider the reputation, conduct, stability, and ability of the person being recommended.

These rules are intended to implement Iowa Code sections 80B.11, 80B.11A, 80B.11C and 80D.4.

ITEM 12. Amend subrule 7.13(9) as follows:

**7.13(9) Psychological testing.** These files contain information concerning a law enforcement applicant's test scores regarding cognitive and ~~personality~~ psychological tests mandated by Iowa Code section 80B.11(1) "g." In these files other psychological examinations requested by hiring agencies are also stored by a personal identifier. Some of this information may be confidential pursuant to Iowa Code section 22.7(19). Law enforcement officers interested in the results of their psychological testing should contact the hiring agency that authorized the testing. This information is maintained in both computerized and paper form.

ITEM 13. Rescind 501—Chapter 9 and adopt the following new chapter in lieu thereof:

CHAPTER 9  
JAILER TRAINING

**501—9.1(80B) Jailer training.**

## LAW ENFORCEMENT ACADEMY[501](cont'd)

**9.1(1) Basic training.** All jail administrators shall meet the following requirements within six months of appointment. Jailers shall meet the following requirements within one year of employment or assignment:

*a.* Successful completion of a 40-hour training program approved by the academy or the National Sheriffs' Association correspondence course. Either course must be appropriately documented to reflect course content, length of session, and instructor(s). All instructors presenting in the 40-hour training program shall be certified by academy personnel utilizing certification standards adopted by the academy (rule 501—4.1(80B,80D)). It shall be the responsibility of the training program administrator to make certain all instructors are certified and the training program is approved.

*b.* Approved 40-hour training program curriculums shall include the following topics:

(1) Suicide prevention/mental illness (201—paragraph 50.15(6) “c”).  
 (2) Prison rape elimination act (PREA) (Title 42 U.S.C. 147).  
 (3) Bloodborne pathogens (OSHA standard as set out in CFR Part 1910.1030(g)(2)).  
 (4) Legal: training topics in paragraphs “1” through “5” below must include references to the Iowa Code, jail standards and relevant case law.

1. Grievance and disciplinary procedures (201—subrule 50.21(4)).
2. Constitutional rights of inmates (201—Chapter 50).
3. Introduction to Iowa criminal law as applicable to a jail setting (201—Chapter 50).
4. Affirmative duty to intervene/intercede.
5. Use of force (Iowa Code sections 704.1, 704.2, 704.2A, 704.2B, 704.8).
- (5) Cultural diversity including implicit bias (Iowa Code section 80B.11G).
- (6) Communication skills including de-escalation (Iowa Code section 80B.11G).
- (7) Methods of restraining violent inmates.
- (8) Medical screening at intake (201—subrule 50.15(6)).
- (9) Supervision of inmates.
- (10) Report writing.
- (11) DNA submissions.
- (12) Fingerprinting.
- (13) Medication management (201—subrule 50.15(2)).
- (14) Security procedures/cell and area searches.
- (15) Jail standards (201—Chapter 50).
- (16) Juveniles in custody.

*c.* First aid and cardiopulmonary resuscitation (CPR).

(1) The individual shall hold a current course completion card in CPR, automated external defibrillator (AED) and foreign body airway obstruction for adults according to national standards defined by the International Liaison Committee on Resuscitation (ILCOR) and recognized by the Iowa law enforcement academy.

(2) The individual shall be trained in first aid according to national standards recognized by the Iowa law enforcement academy or shall hold certification as an Iowa law enforcement emergency care provider (ILEECP), emergency medical responder, licensed practical nurse, registered nurse, or medical practitioner or hold other similar certification in the state of Iowa.

(3) All certification or licensure required by this rule must thereafter be maintained current according to the standards of the certifying or licensing agency.

**9.1(2) Annual jailer in-service curriculum.** During each fiscal year of employment following completion of the required basic training as set forth in subrule 9.1(1), jailers and the administrator of a jail shall complete 20 hours of in-service training, not to include proficiency in chemical agents or firearms qualification. All instructors shall be certified by academy personnel utilizing certification standards adopted by the academy.

- a.* The following is a list of annually (every year) required topics:
- |  |                 |
|--|-----------------|
|  | 12 hours        |
| (1) Suicide prevention/mental illness (201—paragraph 50.15(6) “c”) | 3 hours minimum |
| (2) Prison rape elimination act (PREA) (Title 42 U.S.C. 147)       | 1 hour minimum  |
| (3) Emergency evacuation plan (201—subrule 50.9(3))                |                 |



## LAW ENFORCEMENT ACADEMY[501](cont'd)

- |   |                 |
|---|-----------------|
| (4) Bloodborne pathogens (OSHA standard as set out in CFR Part 1910.1030(g)(2))   | 1 hour minimum  |
| (5) Legal: training topics in paragraphs “1” through “5” must include references to the Iowa Code, jail standards and relevant case law | 2 hours         |
| 1. Grievance and disciplinary procedures (201—subrule 50.21(4))   |                 |
| 2. Constitutional rights of inmates (201—Chapter 50)  |                 |
| 3. Introduction to Iowa criminal law as applicable to a jail setting (201—Chapter 50)   |                 |
| 4. Affirmative duty to intervene/intercede  |                 |
| 5. Use of force (Iowa Code sections 704.1, 704.2, 704.2A, 704.2B, 704.8)  |                 |
| (6) Cultural diversity including implicit bias (Iowa Code section 80B.11G)  | 2 hours minimum |
| (7) Communication skills including de-escalation (Iowa Code section 80B.11G)  | 1 hour minimum  |
| (8) Methods of restraining violent inmates  | 1 hour minimum  |
| (9) Medical screening at intake (201—subrule 50.15(6))  | 1 hour minimum  |
| b. Required biannually (every two years):   |                 |
| CPR/AED/airway obstruction – adult  | 4 hours         |
| c. Eight hours of additional training selected by the jail administrator or sheriff.  |                 |

**501—9.2(80B) Holding facility personnel training.**

**9.2(1) Basic training.** All appointed facility administrators and designees shall meet the following requirements within one year of employment or assignment:

*a.* Facility administrators and supervisors employed in holding facilities shall receive ten hours of training within the first year of employment. This training shall include the following required topics or comparable course content:

- (1) Suicide prevention/mental illness (201—paragraph 50.15(6) “c”).
- (2) Prison rape elimination act (PREA) (Title 42 U.S.C. 147).
- (3) Legal: training topics in paragraphs “1” through “5” must include references to the Iowa Code, jail standards and relevant case law.

1. Grievance and disciplinary procedures (201—subrule 50.21(4)).
2. Constitutional rights of inmates (201—Chapter 50).
3. Introduction to Iowa criminal law as applicable to a jail setting (201—Chapter 50).
4. Affirmative duty to intervene/intercede.
5. Use of force (Iowa Code sections 704.1, 704.2, 704.2A, 704.2B, 704.8).

(4) Security procedures.

*b.* First aid and CPR.

(1) The individual shall hold a current course completion card in CPR, AED and foreign body airway obstruction for adults according to national standards defined by the ILCOR and recognized by the Iowa law enforcement academy.

(2) The individual shall be trained in first aid according to national standards recognized by the Iowa law enforcement academy, or shall hold certification as an ILEACP, emergency medical responder, licensed practical nurse, registered nurse, or medical practitioner or hold other similar certification in the state of Iowa.

(3) All certification or licensure required by this rule must thereafter be maintained current according to the standards of the certifying or licensing agency.

**9.2(2) Annual holding facility in-service curriculum.**

*a.* Administrators and supervisors of holding facilities shall complete five hours of in-service training, not to include hours spent in maintaining required certification or proficiency in first aid, CPR/AED/airway obstruction – adult, chemical agents, or handling of firearms.

*b.* Required annually (every year):

- (1) Suicide prevention (201—paragraph 50.15(6) “c”) 1 hour minimum
- (2) Emergency evacuation plan (201—subrule 50.9(3))
- (3) Bloodborne pathogens (OSHA standard as set out in CFR Part

## LAW ENFORCEMENT ACADEMY[501](cont'd)

1910.1030(g)(2))

1 hour minimum

These rules are intended to implement Iowa Code section 80B.11A.

ITEM 14. Rescind 501—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10  
RESERVE PEACE OFFICERS

**501—10.1(80D) General requirements for reserve peace officers.** In no case shall any person hereafter be selected or appointed as a reserve peace officer unless the person:

**10.1(1)** Is a citizen of the United States and a resident of Iowa or intends to become a resident of Iowa upon appointment as a reserve peace officer, provided that the state residency requirement under this subrule shall not apply to employees of a city or county that has adopted an ordinance to allow the employees of the city or county to reside in another state and shall not apply to an employee of a city or county that later repeals such an ordinance if the employee resides in another state at the time of the repeal. A city or county that has adopted an ordinance to allow the employees of the city or county to reside in another state shall provide a current copy of the ordinance to the Iowa law enforcement academy.

**10.1(2)** Is 18 years of age at the time of selection or appointment.

**10.1(3)** Has a valid driver's or chauffeur's license issued by the state of Iowa. Reserve peace officers who are allowed to reside in an adjacent state shall be required to possess a valid driver's or chauffeur's license of the state of residence of the officer.

**10.1(4)** Is not addicted to drugs or alcohol.

**10.1(5)** Is of good moral character as determined by a thorough background investigation, including a fingerprint search conducted on local, state and national fingerprint files, and has not been convicted or adjudicated of any offense listed in 501—paragraph 2.1(5)“a.”

**10.1(6)** Is not by reason of conscience or belief opposed to the use of force when necessary to fulfill the person's duties.

**10.1(7)** Is a high school graduate with a diploma or possesses a GED equivalency certificate.

**10.1(8)** Has an uncorrected vision of not less than 20/100 in both eyes, corrected to 20/20.

*a.* The applicant shall have color vision consistent with the occupational demands of law enforcement. An applicant's passing any of the following color vision tests indicates that the applicant has color vision abilities consistent with the occupational demands of law enforcement:

(1) Pseudoisochromatic plates tests such as, but not limited to, Tokyo Medical College, Ishihara, Standard Pseudoisochromatic Plates, Dvorine, American Optical HHR Plates, and American Optical.

(2) Panel tests such as Farnsworth Dichotomous D-15 Test or any other test designed and documented to identify extreme anomalous trichromatic, dichromatic or monochromatic color vision. Color corrective lenses may not be used by an applicant during the testing process per the American College of Occupational and Environmental Medicine (ACOEM) Guidance for the Medical Evaluation of Law Enforcement Officers.

*b.* An individual with extreme anomalous trichromatism or monochromasy color vision, as determined through testing, is not eligible to serve as a reserve peace officer in the state of Iowa.

**10.1(9)** Has hearing corrected to normal hearing standards. Hearing is considered normal when, tested by an audiometer, hearing sensitivity thresholds are within 25dB measured at 1000Hz, 2000Hz and 3000Hz averaged together. Hearing tests conducted within 12 months before appointment or selection may be used. A person who performs policing duties alone and without the direct supervision of a certified regular law enforcement officer who is physically present with the reserve peace officer at all times must have normal hearing in each ear. Policing duties include but are not limited to responding to calls, making traffic stops, and patrolling the jurisdiction.

**10.1(10)** Is examined by a licensed physician or surgeon and meets the physical requirements as defined by the law enforcement agency necessary to fulfill the responsibilities of the reserve peace officer position being filled.

## LAW ENFORCEMENT ACADEMY[501](cont'd)

**501—10.2(80D) Higher standards not prohibited.** A person who does not meet minimum standards shall not be selected or appointed as an Iowa reserve peace officer. Agencies are not limited or restricted in establishing additional standards.

**501—10.3(80D) Certification through training required for all reserve peace officers.**

**10.3(1)** Each person appointed to serve as a reserve peace officer after July 1, 2007, shall satisfactorily complete a minimum training course established by the academy consisting of at least 80 hours of training and 40 hours of supervised time. Training for individuals appointed as reserve peace officers shall be provided by the Iowa law enforcement academy through the learning management system, through approved regional academies, or through instructors at a law enforcement agency approved by the academy. Reserve peace officers must be certified within 18 months from the date of their appointment.

*a.* The training modules will be available through a learning management system online. The modules are self-paced and must be completed in order. The reserve peace officer completing the training module will be given an academy-developed test covering the completed module. The reserve peace officer completing the training module must pass the test with a score of 70 percent or better. If the first test score is below 70 percent, the reserve peace officer may take the test a second time following remediation of the failed topic(s) with an Iowa law enforcement academy instructor. Failure of the test the second time will result in the individual's not being eligible for certification for a period of one year following the date of the second test failure. At the completion of the training modules, the reserve peace officer will be given an academy-developed test covering all six modules. The reserve peace officer must pass this test with a score of 70 percent or better. If the first test score is below 70 percent, the reserve peace officer may take the test a second time following remediation of the failed topic(s) with an Iowa law enforcement academy instructor.

*b.* Supervised time is defined as direct supervision by a regular certified law enforcement officer of the reserve peace officer while the reserve peace officer is performing activities consistent with the reserve peace officer's duties, such as ride-along time, jail time, or other assigned duties.

*c.* Upon satisfactory completion of training and supervised time required by the academy, the individual shall be certified by the academy as an Iowa reserve peace officer and shall be issued a certificate by the academy.

**10.3(2)** The academy council may, at the council's discretion, extend the 18-month time period in which a reserve peace officer must become certified for up to 180 days after a showing of undue hardship by the reserve peace officer or the reserve peace officer's appointing agency. To be considered for an extension of the 18-month certification period, the person or agency requesting the extension must initiate the request in writing not less than ten days prior to the council meeting at which the extension request is to be discussed and must also make a presentation to the council at the next regularly scheduled meeting of the council. An extension shall not be liberally granted and shall only be granted after a showing that all other alternatives to an extension have been considered and rejected.

**10.3(3)** The time period within which a person must achieve certification as a reserve peace officer in the state of Iowa shall commence on the day a person is first appointed as a reserve peace officer in the state of Iowa. Any subsequent changes in a reserve peace officer's appointment status, including transfers to a different appointing agency, shall not toll or otherwise extend the certification period.

**10.3(4)** Should a person appointed as a reserve peace officer fail to achieve certification within the time period or under any extension allowed by this rule, that person shall not be eligible for appointment as a reserve peace officer and shall not serve as a reserve peace officer in the state of Iowa for a period of not less than one year from the date the time period in which to achieve certification expired, or from the date that the person was last appointed as a reserve peace officer in the state of Iowa, whichever comes first.

**501—10.4(80D) Curriculum for training modules.** Six modules consisting of 12 to 16 hours of required training topics per module will be developed by the academy. The training modules will include curriculum and training materials for each topic. Curriculum and training materials will be

## LAW ENFORCEMENT ACADEMY[501](cont'd)

provided by the academy to all reserve officer candidates via the online learning management system and to agencies with academy-approved instructors. Training modules will be updated no less than every three years. Approved training module curriculum shall include the following topics:

**10.4(1) Module A.**

- a.* Implicit bias.
- b.* Patrol techniques.
- c.* Ethics.
- d.* Use of force.
- e.* De-escalation.
- f.* Defensive tactics.

**10.4(2) Module B.**

- a.* Law of arrest.
- b.* Report writing.
- c.* Discretion.
- d.* Interviews and interrogations.
- e.* Role of emergency communication.
- f.* Precision driving.
- g.* Traffic direction.
- h.* Motor vehicle law.

**10.4(3) Module C.**

- a.* Vehicle stops.
- b.* Collision scene control.
- c.* Criminal law.
- d.* Current drug trends.
- e.* Recognizing impairment.
- f.* Community policing.

**10.4(4) Module D.**

- a.* Search and seizure.
- b.* Felony calls.
- c.* Introduction to crime scene.
- d.* Crisis and conflict.
- e.* Domestic abuse.
- f.* Juvenile law.

**10.4(5) Module E.**

- a.* Human trafficking.
- b.* Hazmat awareness.
- c.* Civil liability.
- d.* Bloodborne pathogens.
- e.* Weather preparedness.
- f.* Court organization.
- g.* Testifying in court.
- h.* Community relations.

**10.4(6) Module F.**

- a.* Mandatory reporting.
- b.* Practical skills testing in the areas of defensive tactics, vehicle stops, precision driving, and report writing.

**501—10.5(80D) Weapons certification.**

**10.5(1)** Reserve officers must receive council certification in the use of weapons the hiring authority expects and authorizes the reserve peace officers to carry. Weapons training is not required with any weapons the reserve officers are not authorized to carry.

## LAW ENFORCEMENT ACADEMY[501](cont'd)

**10.5(2)** Individuals who have been certified through training by the Iowa law enforcement academy as regular officers may be certified to carry weapons as reserve officers without repeating the required reserve officer's weapons training under the following conditions:

*a.* The academy certification through training was acquired through a school in which firearms training was required; and

(1) The individual is serving as a regular officer for another department at the time of appointment as a reserve officer, or

(2) The individual has served as a regular officer within the two years immediately preceding appointment as a reserve officer.

*b.* Verification must also be provided to the council that the officer has fired a qualifying score of 80 percent or higher on a firearm course using targets approved by the academy within the past 12 months. This verification must be provided by an academy-trained and -certified firearms instructor.

**10.5(3)** Firearms, striking instruments and chemical weapons training must be provided by an Iowa law enforcement academy-certified instructor before a reserve peace officer can be certified to carry weapons. Reserve officer weapons training requirements are the same as those required of regular law enforcement officers during their basic training.

**10.5(4)** Application for weapons certification.

*a.* Application for weapons certification must be made in writing to the council on forms provided by the academy.

*b.* An applicant for certification to carry weapons as a reserve peace officer must be of good moral character and not have been convicted or adjudicated of any offense listed in 501—paragraph 2.1(5)“*a.*”

*c.* Verification must be received by the council that a fingerprint check has been made with the Federal Bureau of Investigation and the division of criminal investigation of the Iowa department of public safety and that the applicant has not been convicted or adjudicated of any offense listed in 501—paragraph 2.1(5)“*a.*” Fingerprint check responses from these agencies must be dated not more than one year prior to the date of the receipt by the academy of the application to the council for certification.

*d.* Council certification will be granted only where weapons proficiency is documented. Training in support of an application to the Iowa law enforcement academy council to carry weapons as a reserve peace officer shall have been accomplished not more than one year prior to the date of the receipt by the academy of the application to the council for certification. Failure to file the application within one year of the date of training shall require the officer to undergo weapons training anew.

*e.* Interim certification to carry weapons may be granted by the chairperson of the council if all requirements for certification have been met by the reserve officer and certified by the appointing authority. All interim certifications to carry weapons shall then be brought before the council at the next regularly scheduled meeting in order that the council can approve or reject the reserve officer's certification to carry weapons.

**501—10.6(80D) Reserve peace officers moving from agency to agency.** A reserve peace officer who has been certified by the Iowa law enforcement academy council to carry weapons and who transfers from one Iowa law enforcement agency to another as a reserve officer without more than a 180-day break in service (affiliation) will not be required to undergo weapons certification training anew, provided that a completed application to carry weapons as a reserve officer for the new agency in compliance with Iowa Code section 80D.7 is filed with the academy within 180 days of the date of transfer. If firearms certification is requested, the application must show that the officer has fired qualifying rounds under the supervision of an academy-certified firearms instructor within 30 days of the date of application. The application shall further state that all training records for the officer have been transferred to the new agency.

**501—10.7(80D) Reserve peace officers in agencies under intergovernmental agreements.** When jurisdictions enter into an intergovernmental agreement under the provisions of Iowa Code chapter 28E for the sharing of law enforcement services by those jurisdictions and sharing of reserve peace officers,

## LAW ENFORCEMENT ACADEMY[501](cont'd)

the compliance of reserve peace officers with rule 501—10.1(80D) does not need to be reverified if the execution, filing and recording of the intergovernmental agreement conform to the requirements of Iowa law and a certified copy of the agreement is provided to the director of the academy. However, this exception from reverification does not apply to the establishment of a unified law enforcement district as defined in Iowa Code section 28E.21, wherein a new legal entity or political subdivision is established.

**501—10.8(80D) Reserve peace officers serving more than one agency.**

**10.8(1)** A reserve peace officer who has previously met all the requirements of rule 501—10.1(80D) and who intends to move reserve peace officer status from one Iowa law enforcement agency to another Iowa law enforcement agency, or who intends to be a reserve peace officer for more than one Iowa law enforcement agency simultaneously, shall be of good moral character as determined by a thorough background investigation by the law enforcement agency, including but not limited to a fingerprint search conducted by the Iowa division of criminal investigation and the Federal Bureau of Investigation. If the results of the fingerprint file checks cannot reasonably be obtained prior to the time of appointment, the appointment shall be considered conditional until such time as the results are received and reviewed by the appointing agency.

**10.8(2)** Except as otherwise specified, the provisions of rule 501—10.1(80D) do not need to be verified upon the movement of reserve peace officer status from one Iowa law enforcement agency to another Iowa law enforcement agency or upon the reserve peace officer's being appointed as a reserve peace officer by more than one Iowa law enforcement agency simultaneously, if the reserve peace officer met all of the requirements of rule 501—10.1(80D) when the person was initially appointed as a reserve peace officer and if, without a break of not more than 180 days from law enforcement service, the person is appointed as a reserve peace officer by another Iowa law enforcement agency.

**10.8(3)** A reserve peace officer who serves more than one Iowa law enforcement agency at the same time must be certified by the Iowa law enforcement academy council to carry weapons for each agency that the reserve officer serves in compliance with Iowa Code section 80D.7. It is not necessary for the officer to complete weapons training for each such agency, but all agencies shall maintain duplicate training records for the officer.

**501—10.9(80D) Minimum in-service training requirements.** All certified reserve peace officers shall meet the following mandatory minimum in-service training requirements:

**10.9(1)** *Firearms training.* A certified reserve peace officer who is authorized to carry firearms must qualify with all duty firearms annually on a course of fire using targets approved by the Iowa law enforcement academy and must successfully fire a minimum score as established by the Iowa law enforcement academy, using targets approved by the academy under the supervision of an academy-certified firearms instructor. This subrule applies only to those reserve peace officers who are authorized to carry firearms by the officers' appointing agency.

**10.9(2)** *CPR certification required.* Reserve peace officers shall maintain current course completion in cardiopulmonary resuscitation (CPR), automated external defibrillator (AED) and foreign body airway obstruction for all age groups according to national standards recognized by the Iowa law enforcement academy.

**10.9(3)** *General training.* In addition to the firearms training and CPR training requirements, a certified reserve peace officer must receive a minimum of 12 hours per year, or 36 hours every three years, of law enforcement-related in-service training. Whether training is law enforcement-related shall be determined by the employing agency administrator.

**10.9(4)** *Mental health training.* In addition to the requirements of subrules 10.9(1), 10.9(2) and 10.9(3), a certified reserve peace officer must receive mental health in-service training from a course of study approved by the Iowa law enforcement academy.

*a. Initial in-service training.* Effective September 25, 2013, each certified reserve peace officer shall complete within one year a minimum of four hours of mental health training from a course of study approved by the Iowa law enforcement academy council. Successful completion of mental health first

## LAW ENFORCEMENT ACADEMY[501](cont'd)

aid or crisis intervention (Memphis Model or similar model) training after January 1, 2011, shall satisfy the initial requirement.

*b. Annual in-service training.* Effective September 25, 2013, each certified reserve peace officer shall complete a minimum of one hour per year, or four hours every four years, of mental health training from a course of study approved by the Iowa law enforcement academy council. This annual in-service training is separate from and in addition to any other in-service training requirements set forth in this chapter, including the initial in-service mental health training required.

**10.9(5) De-escalation training.** In addition to the requirements of subrules 10.9(1), 10.9(2), 10.9(3) and 10.9(4), a certified reserve peace officer must receive a minimum of four hours per year of training that includes all of the following topics:

*a.* An emphasis on law enforcement officer understanding and respect for diverse communities and the importance of effective, noncombative methods of carrying out law enforcement activities in a diverse community.

*b.* Instruction on diverse communities in order to foster mutual respect and cooperation between law enforcement and members of all diverse communities.

*c.* An examination of the patterns, practices, and protocols that cause biased law enforcement actions, and the tools to prevent such actions.

*d.* An examination and identification of key indices and perspectives that make up differences among residents in a local community.

*e.* Instruction on implicit bias and consideration of the negative impact of bias, whether intentional or implicit, on effective law enforcement, including examination of how historical perceptions of profiling have harmed community relations.

*f.* Instruction on the perspectives of diverse local constituency groups from experts on particular cultural and law enforcement-community relations issues in a local area.

*g.* A presentation of the history and the role of the civil rights movement and the impact on law enforcement.

*h.* Instruction on de-escalation techniques, including verbal and physical tactics to minimize the need for the use of force and nonlethal methods of applying force.

**10.9(6) Training and in-service requirements for regular law enforcement officers who become certified reserve peace officers.**

*a.* An active certified regular law enforcement officer who also serves as a reserve peace officer or a certified regular law enforcement officer who retires or leaves active regular law enforcement and returns within 180 days to an Iowa law enforcement agency as a reserve peace officer needs no further training.

*b.* Any individual who leaves an Iowa law enforcement officer position and becomes a certified reserve peace officer shall receive in-service training within one year of the individual's appointment date as follows:

| Period Outside of Iowa Law Enforcement | In-Service Training Required |
|--|------------------------------|
| 6 months to 12 months                  | 12 hours                     |
| More than 12 months to 24 months       | 24 hours                     |
| More than 24 months to 36 months       | 36 hours                     |
| More than 36 months                    | 60 hours                     |

The subject matter of this training will be determined and approved by the law enforcement agency.

**10.9(7) Agency responsibility for record keeping.** It shall be the responsibility of the law enforcement agency administrator to ensure that in-service training records are regularly kept and maintained. The law enforcement administrator shall also ensure that these records are made available for inspection upon request by the Iowa law enforcement academy or its designee.

*a.* In-service training records shall include the following:

- (1) The subject matter of the training;
- (2) The name of the instructor conducting the training;

## LAW ENFORCEMENT ACADEMY[501](cont'd)

- (3) The name of the individual who completed the training;
- (4) The number of credit hours received from the training;
- (5) The location where the training took place; and
- (6) The scores, if any, achieved by the reserve peace officer to show proficiency in or understanding of the subject matter to include qualifying range scores.

*b.* It shall be the responsibility of law enforcement agency administrators to ensure that all certified reserve peace officers under their direction receive the minimum hours of in-service training required by these rules.

**501—10.10(80D) Reserve peace officers appointed prior to July 1, 2007—obtaining state certification.**

**10.10(1)** A reserve peace officer enrolled in an approved minimum course of training prior to July 1, 2007, shall obtain state certification by July 1, 2012. Current reserve peace officers choosing not to be state-certified by examination or by module training established by the academy will continue to hold agency certification only and will not be recognized as reserve peace officers after July 1, 2012.

**10.10(2)** If a reserve peace officer appointed prior to July 1, 2007, with agency certification only transfers to another agency, the reserve peace officer will be considered a new reserve peace officer and will be subject to the 18-month training requirements for state certification.

**501—10.11(80D) Active law enforcement officer moving to reserve peace officer status.**

**10.11(1)** An active law enforcement officer who has previously met all the requirements of rule 501—2.1(80B) and who intends to move to reserve peace officer status, or who intends to be a reserve peace officer for more than one Iowa law enforcement agency simultaneously, or who intends to be a reserve peace officer for an Iowa law enforcement agency while also working as an active law enforcement officer shall be of good moral character as determined by a thorough background investigation by the law enforcement agency, including but not limited to a fingerprint search conducted by the Iowa division of criminal investigation and the Federal Bureau of Investigation. If the results of the fingerprint file checks cannot reasonably be obtained prior to the time of appointment, the appointment shall be considered conditional until such time as the results are received and reviewed by the appointing agency.

**10.11(2)** Except as otherwise specified, the provisions of rule 501—10.1(80D) do not need to be verified upon the movement of active law enforcement officer status to reserve peace officer status or upon the officer's being appointed as a reserve peace officer by more than one Iowa law enforcement agency simultaneously, or upon the officer's being appointed as a reserve peace officer by one Iowa law enforcement agency while serving in active law enforcement status for another agency if the peace officer met all of the requirements of rule 501—2.1(80B) when the person was initially appointed as a peace officer and if, without a break of not more than 180 days from law enforcement service, the person is appointed as a reserve peace officer by another Iowa law enforcement agency.

**501—10.12(80D) Time frame—tolled.** The time frame requirements for completion of any mandatory training are tolled during the period a reserve peace officer is called to active military service.

These rules are intended to implement Iowa Code chapter 80D.

ITEM 15. Amend subrule 11.4(2) as follows:

**11.4(2)** Recertification shall require one of two training courses depending upon whether the salvage vehicle theft examiner's ~~experience~~ certification has expired.

*a.* ~~Salvage vehicle theft examiners who have conducted 48 or more salvage vehicle theft examinations since their certification or recertification date~~ are required to successfully complete a minimum four-hour salvage vehicle theft refresher course approved by the academy prior to the expiration of certification. The refresher course shall be completed no more than 30 days prior to the expiration of certification.



## LAW ENFORCEMENT ACADEMY[501](cont'd)

b. Previously certified salvage vehicle theft examiners who have ~~not conducted a minimum 48 or more salvage vehicle theft examinations since their certification or recertification date~~ an expired certification must retake the initial 12-hour in-person salvage vehicle theft examination course to be recertified.

c. No change.

ITEM 16. Rescind rule **501—13.5(80B)**.

ITEM 17. Renumber rule **501—13.6(80B)** as **501—13.5(80B)**.

[Filed 12/17/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6131C****PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed****Rule making related to supervision**

The Board of Social Work and Board of Behavioral Science hereby amend Chapter 31, "Licensure of Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts," and Chapter 280, "Licensure of Social Workers," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 154C.4 and 154D.3 and 2021 Iowa Acts, House File 891.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 154C.4 and 154D.3 and 2021 Iowa Acts, House File 891.

*Purpose and Summary*

This rule making amends supervision requirements for social workers, mental health counselors, and marriage and family therapists to remove in-person supervision requirements and allow supervision to occur electronically. This rule making also updates language to clarify that independent-level social workers may provide supervision to mental health counselors and marriage and family therapists who are completing their postgraduate supervision requirements and vice versa, and independent-level licensed mental health counselors and marriage and family therapists can supervise social workers completing their postgraduate supervision requirements.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 28, 2021, as **ARC 5794C**. This rule making was also adopted and filed emergency and published in the Iowa Administrative Bulletin as **ARC 5795C** on the same date.

A public hearing was held on August 17, 2021, at 9 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. One comment was received in support of the rule making. No changes from the Notice have been made.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Adoption of Rule Making*

This rule making was adopted by the Board of Behavioral Science on September 8, 2021, and the Board of Social Work on November 22, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Boards of Social Work and Behavioral Science for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **31.5(1)“d”** as follows:

*d.* ~~Include a minimum of 25 percent of all clinical supervision in person.~~ Be completed in person or by electronic means.

~~(1) The first two meetings shall be face-to-face and in person.~~

~~(2) (1)~~ Up to 50 percent of all supervision may be completed by telephone.

~~(3) Up to 75 percent of all supervision may be completed by electronic means.~~

~~(4) (2)~~ Supervision by electronic means is acceptable if the system utilized is a confidential, interactive, secure, real-time system that provides for visual and audio interaction between the licensee and the supervisor.

ITEM 2. Rescind paragraph **31.5(2)“b.”**

ITEM 3. Reletter paragraphs **31.5(2)“c”** and **“d”** as **31.5(2)“b”** and **“c.”**

ITEM 4. Amend relettered paragraph **31.5(2)“b”** as follows:

*b.* Effective October 1, 2020, the supervisor shall:

(1) Be an Iowa-licensed marital and family therapist with a minimum of three years of clinical experience following licensure or shall be a supervisor or supervisor candidate approved by the American Association for Marriage and Family Therapy Commission on Supervision; or

(2) Be an Iowa-licensed mental health counselor in Iowa with at least three years of clinical experience following licensure or shall be approved by the National Board for Certified Counselors (NBCC) as a supervisor; ~~and or~~

(3) Be an Iowa-licensed social worker independent level with at least three years of clinical experience following licensure at the independent level; and

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- ~~(3)~~ (4) Have completed at least a six-hour continuing education course in counseling supervision or one master's level course in counseling supervision; and
- (4) (5) Meet a minimum of four hours per month with the supervisee; and
- ~~(5)~~ (6) Provide training that is appropriate to the functions to be performed; and
- ~~(6)~~ (7) Ensure that therapeutic work is completed under the professional supervision of a supervisor; and
- ~~(7)~~ (8) Not supervise any marital and family therapy or permit the supervisee to engage in any therapy that the supervisor cannot perform competently.

ITEM 5. Amend paragraph **31.7(1)“d”** as follows:

~~d. Include a minimum of 25 percent of all clinical supervision in person. Be completed in person or by electronic means.~~

- ~~(1) The first two meetings shall be face-to-face and in person.~~
- (2) (1) Up to 50 percent of all supervision may be completed by telephone.
- ~~(3) Up to 75 percent of all supervision may be completed by electronic means.~~
- (4) (2) Supervision by electronic means is acceptable if the system utilized is a confidential, interactive, secure, real-time system that provides for visual and audio interaction between the licensee and the supervisor.

ITEM 6. Rescind paragraph **31.7(2)“b.”**

ITEM 7. Reletter paragraphs **31.7(2)“c”** and **“d”** as **31.7(2)“b”** and **“c.”**

ITEM 8. Amend relettered paragraph **31.7(2)“b”** as follows:

b. Effective October 1, 2020, the supervisor shall:

- (1) Be an Iowa-licensed mental health counselor in Iowa with at least three years of clinical experience following licensure or shall be approved by the National Board for Certified Counselors (NBCC) as a supervisor; or
- (2) Be an Iowa-licensed marital and family therapist with a minimum of three years of clinical experience following licensure or shall be a supervisor or supervisor candidate approved by the American Association for Marriage and Family Therapy Commission on Supervision; ~~and or~~
- (3) Be an Iowa-licensed social worker independent level with at least three years of clinical experience following licensure at the independent level; and

- ~~(3)~~ (4) Have completed at least a six-hour continuing education course in counseling supervision or one master's level course in counseling supervision; and
- (4) (5) Meet a minimum of four hours per month with the supervisee; and
- ~~(5)~~ (6) Provide training that is appropriate to the functions to be performed; and
- ~~(6)~~ (7) Ensure that therapeutic work is completed under the professional supervision of a supervisor; and
- ~~(7)~~ (8) Not supervise any mental health counselor or permit the supervisee to engage in any therapy that the supervisor cannot perform competently.

ITEM 9. Amend paragraph **280.6(3)“a”** as follows:

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

ITEM 10. Amend paragraph **280.6(4)“a”** as follows:

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

- (1) Hold an active Iowa license to practice social work at the independent level, an active Iowa license to practice mental health counseling without supervision, or an active Iowa license to practice marital and family therapy without supervision in Iowa. If the supervised professional practice occurs in another state, a ~~social worker~~ supervisor licensed in that state may serve as a supervisor ~~if the social worker is licensed at a level equivalent to the independent level. A social worker licensed in another~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~state and may provide direct supervision hours if the social worker is licensed at a level equivalent to the independent level supervisor holds an equivalent license.~~

(2) and (3) No change.

[Filed 12/13/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6146C**

## **PROFESSIONAL LICENSURE DIVISION[645]**

**Adopted and Filed**

### **Rule making related to licensure**

The Board of Sign Language Interpreters and Transliterators hereby amends Chapter 361, "Licensure of Sign Language Interpreters and Transliterators," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 147.76, 154E.2 and 272C.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 154E.2.

#### *Purpose and Summary*

These amendments add videoconferencing and remote services in the definition of interpreter or transliterator services, update the requirements for licensure to include submission of online applications and online payment, clarify that official documentation of passing an approved examination or of current certification of an accepted certification is required for licensure, and add an advanced certification awarded by the Board for Evaluation of Interpreters to the certifications accepted for licensure. License reactivation requirements will be expanded to include current verification of competence based on passing an examination or presenting current certification. These amendments also add requirements for temporary licensure, including passing one of the accepted examinations or successful completion of an interpreter training program from a regionally accredited college or university, and submission of a written supervisory agreement with the application for a temporary license.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5821C**. A public hearing was held on August 31, 2021, at 10 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa.

The comments received regarding the rule making were all positive. The comments were particularly supportive of the additional requirements for temporary licensure to assure the protection of deaf consumers. The attendees at the public hearing provided written comments.

In the review of the comments regarding the requirements for a temporary license, the Board accepted the recommendations of one commenter regarding the addition of two standardized, nationally recognized examinations of American Sign Language (ASL) proficiency to the list of accepted examinations. The Board agreed to add the Sign Language Proficiency Interview (SLPI) and the American Sign Language Proficiency Interview (ASLPI). The Board also added a clarification regarding the acceptance of completion of a formal interpreter training program as qualifying for a temporary

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license, to clarify that the program be at the level of an associate degree or higher from a regionally accredited college or university.

*Adoption of Rule Making*

This rule making was adopted by the Board on October 18, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule **645—361.1(154E)**, definitions of “Active interpreter or transliterator services” and “Direct supervision of a temporary license holder,” as follows:

“*Active interpreter or transliterator services*” means the actual time spent personally providing interpreting or transliterating services or providing interpreting or transliterating services through videoconferencing or remotely. When in a team interpreting situation, the time spent monitoring while the team interpreter is actively interpreting shall not be included in the time spent personally providing interpreting or transliterating services.

“*Direct supervision of a temporary license holder*” means monitoring of interpreting or transliterating services while personally observing the temporary license holder providing those services, as outlined in paragraphs ~~361.3(3)“b”~~ 361.3(4)“b” and “c.”

ITEM 2. Amend rule 645—361.2(154E) as follows:

**645—361.2(154E) Requirements for licensure.**

**361.2(1)** The following criteria shall apply to licensure:

*a.* The applicant shall complete a board-approved application ~~packet~~. Application forms may be obtained from the board's website ([www.idph.iowa.gov/licensure](http://www.idph.iowa.gov/licensure)) or directly from the board office. ~~All applications shall be sent to Board of Sign Language Interpreters and Transliterators, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. The applicant may complete the application online at [ibplicense.iowa.gov](http://ibplicense.iowa.gov).~~

*b.* The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed ~~by the board~~ until properly completed.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~c. Each application shall be accompanied by the appropriate fees payable by check or money order. The application fee shall be paid prior to issuance of license. The preferred payment method is by debit card, credit card, or check or money order made to the Board of Sign Language Interpreters and Transliterators. The fees are nonrefundable.~~

~~d. No application will be considered by the board until the applicant successfully official documentation is received to establish that the applicant meets one of the following requirements:~~

~~(1) Passes the National Association of the Deaf/Registry of Interpreters for the Deaf (NAD/RID) National Interpreter Certification (NIC) examination after November 30, 2011; or~~

~~(2) Passes one of the following examinations administered by the Registry of Interpreters for the Deaf (RID):~~

~~1. Oral Transliteration Certificate (OTC); or~~

~~2. Certified Deaf Interpreter (CDI); or~~

~~(3) Passes the Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above after December 31, 1999; or~~

~~(4) Passes the Cued Language Transliterator National Certification Examination (CLTNCE) administered by The National Certifying Body for Cued Language Transliterators; or~~

~~(5) Currently holds one of the following NAD/RID certifications awarded through November 30, 2011, by the National Council on Interpreting (NCI):~~

~~1. National Interpreter Certification (NIC); or~~

~~2. National Interpreter Certification Advanced (NIC Advanced); or~~

~~3. National Interpreter Certification Master (NIC Master); or~~

~~(6) Currently holds one of the following certifications previously awarded by the RID:~~

~~1. Certificate of Interpretation (CI); or~~

~~2. Certificate of Transliteration (CT); or~~

~~3. Certificate of Interpretation and Certificate of Transliteration (CI and CT); or~~

~~4. Interpretation Certificate/Transliteration Certificate (IC/TC); or~~

~~5. Comprehensive Skills Certificate (CSC); or~~

~~(7) Currently holds one of the following certifications previously awarded by the National Association of the Deaf (NAD):~~

~~1. NAD III (Generalist); or~~

~~2. NAD IV (Advanced); or~~

~~3. NAD V (Master); or~~

~~(8) Currently holds an advanced certification awarded by the Board for Evaluation of Interpreters (BEI).~~

~~e. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly to the Board of Sign Language Interpreters and Transliterators.~~

~~361.2(2) Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal cycle two years later.~~

~~361.2(3) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.~~

~~361.2(4) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).~~

ITEM 3. Amend rule 645—361.3(154E) as follows:

**645—361.3(154E) Requirements for temporary license.**

~~361.3(1) An applicant for licensure who has not successfully completed one of the board-approved examinations or does not hold an approved certification set forth in paragraph 361.2(1)“d” but has complied with all other requirements in paragraphs 361.2(1)“a” to “e” shall be issued a temporary license to practice interpreting that shall be valid for two years from initial issue date. A temporary license holder may renew a temporary license once for the immediately following two-year period. and~~

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

submits the online application and fee for a temporary license shall cause documentation to be submitted from the examination program to the board that verifies the applicant has passed one of the following:

- a. The written portion of the Registry of Interpreters for the Deaf (RID) examination;
- b. The written portion of the Board for Evaluation of Interpreters (BEI) examination;
- c. The written portion of the Educational Interpreter Performance Assessment (EIPA) examination;
- d. The EIPA prehire examination at the highest recommended level;
- e. An associate degree or higher from a formal interpreter training program (ITP) with a regionally accredited college or university. An official transcript shall verify completion;
- f. The American Sign Language Proficiency Interview (ASLPI) at the 2+ level or higher; or
- g. The Sign Language Proficiency Interview (SLPI) at the intermediate level or higher.

**361.3(2)** An applicant for a temporary license shall submit a written supervisory agreement that complies with the requirements stated in subrule 361.3(4). The temporary license shall be valid for two years from the initial issue date. A temporary license holder may renew a temporary license once for the immediately following two-year period.

**361.3(2) 361.3(3)** An applicant who is issued a temporary license is subject to the same requirements as those required of a licensed interpreter or transliterator set forth in Iowa Code chapters 154E and 147 and 645—Chapters 361 to 363.

**361.3(3) 361.3(4)** A temporary license holder is only authorized to practice if the following direct supervision requirements are fulfilled. A temporary license holder must:

a. Enter into a written agreement with a supervisor in which the temporary license holder and the supervisor agree to the minimum requirements provided in paragraphs ~~361.3(3)“b”~~ 361.3(4)“b” and “c.” The supervisor shall possess a full, unrestricted sign language interpreter and transliterator license. The agreement shall be signed and dated by the temporary license holder and the supervisor; shall include the temporary license holder’s and supervisor’s names, addresses and contact information; and shall be provided to the board ~~upon request~~ with the application for a temporary license.

b. Have a supervisor observe the temporary license holder in active practice for no fewer than six bimonthly observation sessions per year at events lasting at least 30 minutes each, if the temporary license holder is working alone in providing active interpreter or transliterator services, or at least 60 minutes each, if the temporary license holder is working in a team interpreting situation. At least two of the observation sessions must be in person, and the remainder of the observation sessions may be performed through technology that allows direct observation of the temporary license holder providing active interpreter or transliterator services.

c. Attend at least six bimonthly advisory sessions with the supervisor per year for the purpose of discussing the supervisor’s suggestions for the temporary license holder’s professional skill development based on the observation sessions. An advisory session may occur immediately following an observation session if the setting is appropriate. At least two of the advisory sessions must be in person and the remainder of the advisory sessions may be performed through technology that allows real-time assessment and feedback. Each advisory session shall involve only the temporary license holder and supervisor.

d. Maintain an event log documenting the date, time, length and setting of each observation session and advisory session and whether the session was performed in person or through other technological means. The temporary license holder shall ensure that the supervisor verifies the occurrence of the observation session or advisory session by placing the temporary license holder’s signature on the log prior to submission to the supervisor. This event log shall be provided to the board upon request and must be submitted with the temporary license holder’s renewal application.

e. Ensure that the supervisor attends each of the observation sessions and advisory sessions or reschedules the sessions as necessary to ensure compliance.

f. Comply with the required observation session and advisory session obligations. If for any reason the replacement of a supervisor becomes necessary, the temporary license holder shall be responsible for developing a new written agreement with the new supervisor. A replacement of supervisors shall not excuse noncompliance with observation session and advisory session obligations.

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g. Obtain permission from clients as necessary to allow the supervisor to be in attendance during the observation sessions.

~~361.3(4)~~ **361.3(5)** As an Iowa-licensed practitioner in accordance with this chapter, a supervisor providing direct supervision of a temporary license holder as provided in subrule ~~361.3(3)~~ **361.3(4)** is obligated to report to the board an interpreter or transliterator temporary license holder who is not complying with direct supervision requirements or who is not practicing in compliance with Iowa law and rules including, but not limited to, Iowa Code chapter 154E and 645—Chapters 361 to 363.

ITEM 4. Amend rule 645—361.9(17A,147,272C) as follows:

**645—361.9(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**361.9(1)** Submit a reactivation application on a form provided by the board.

**361.9(2)** Pay the reactivation fee that is due as specified in 645—subrule 5.18(9).

**361.9(3)** Provide verification of current competence to practice sign language interpreting or transliterating by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completing 40 hours of continuing education within two years of the application for reactivation; and

(3) Verification of a current certification as identified in subrule 361.2(1), or of passing an examination identified in subrule 361.2(1), which was passed after the license became inactive.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation; and

(3) Verification of a current certification as identified in subrule 361.2(1), or of passing an examination identified in subrule 361.2(1), which was passed after the license became inactive.

[Filed 12/21/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.



**ARC 6149C****REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to income limit for child and dependent care  
or early childhood development tax credit**

The Revenue Department hereby amends Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 422.68.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 422.12C and 2021 Iowa Acts, Senate File 619, sections 2 through 4.

*Purpose and Summary*

This rule making is intended to implement statutory changes to the income limit for a taxpayer to qualify for the Child and Dependent Care Credit or the Early Childhood Development Credit. 2021 Iowa Acts, Senate File 619, increases the income limit to qualify for the credits from \$45,000 to \$90,000 for tax years beginning on or after January 1, 2021.

The rule making clarifies that a taxpayer who claims the Child and Dependent Care Credit cannot also claim the Early Childhood Development Credit. The rule making also clarifies that the percentage of the federal Child and Dependent Care Credit the taxpayer can claim is based on the taxpayer’s all-source net income. The rule making also explains how nonresidents and part-year residents should calculate the amount of the Early Childhood Development Credit available to them.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as **ARC 6032C**. No public comments were received. Two references to 2021 Iowa Acts, Senate File 619, have been removed since the legislation has been codified in the 2022 Iowa Code.

*Adoption of Rule Making*

This rule making was adopted by the Department on December 22, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 701—42.15(422) as follows:

**701—42.15(422) Child and dependent care credit.** ~~Effective for tax years beginning on or after January 1, 1990, there~~ There is a child and dependent care credit which is refundable to the extent the amount of the credit exceeds the taxpayer's income tax liability less other applicable income tax credits. If a taxpayer claims the child and dependent care credit, the taxpayer cannot claim the early childhood development credit described in rule 701—42.31(422).

**42.15(1) Computation of the Iowa child and dependent care credit.** The Iowa child and dependent care credit is computed as a percentage of the child and dependent care credit which is allowed for federal income tax purposes under Section 21 of the Internal Revenue Code. ~~For taxpayers whose federal child and dependent care credit is limited to their federal tax liability, the Iowa credit shall be computed based on the lesser amount for tax years beginning on or after January 1, 2012, but before January 1, 2015. For tax years beginning on or after January 1, 2015, the Iowa credit is computed without regard to whether or not the federal credit was limited to the taxpayer's federal tax liability. In addition, for tax years beginning on or after January 1, 2015, the Iowa credit will be allowed even if the taxpayer's federal adjusted gross income is below \$0. The credit is computed so that taxpayers with lower adjusted gross incomes (net incomes in tax years beginning on or after January 1, 1991) net incomes are allowed higher percentages of their federal child care credit than taxpayers with higher adjusted gross incomes (net incomes) net incomes. The following is a schedule showing the percentages of federal child and dependent care credits allowed on the taxpayers' Iowa returns on the basis of the federal adjusted gross incomes (or net incomes) net incomes of the taxpayers for tax years beginning on or after January 1, 1993.~~

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| <u>*Federal Adjusted Gross Income (Net Income for Tax Years Beginning on or after January 1, 1993) Net income</u> | <u>Percentage of Federal Child and Dependent Care Credit Allowed for 1993 through 2005 Iowa Returns federal credit allowed for tax years beginning on or after January 1, 2006, and before January 1, 2021</u> | <u>Percentage of Federal Credit Allowed for 2006 and Later Tax Years federal credit allowed for tax years beginning on or after January 1, 2021</u> |
|---|--|---|
| Less than \$10,000  | 75%  | 75%   |
| \$10,000 or more but less than \$20,000   | 65%  | 65%   |
| \$20,000 or more but less than \$25,000   | 55%  | 55%   |
| \$25,000 or more but less than \$35,000   | 50%  | 50%   |
| \$35,000 or more but less than \$40,000   | 40%  | 40%   |
| \$40,000 or more but less than \$45,000   | <del>No Credit</del> 30%   | 30%   |
| \$45,000 or more but less than \$90,000   | No Credit  | <del>No Credit</del> 30%  |
| \$90,000 or more  | No Credit  | No Credit   |

\*Note that in the case of married taxpayers who have filed joint federal returns and elect to file separate returns or to file separately on the combined return form for Iowa purposes, the taxpayers must determine the child and dependent care credit by the schedule provided in this rule on the basis of the their combined federal adjusted gross income of the taxpayers or their combined net income for tax years beginning on or after January 1, 1991 net incomes. The credit determined from the schedule must be allocated between the married taxpayers in the proportion that each spouse's federal adjusted gross income relates to the combined federal adjusted gross income of the taxpayers or in the proportion that each spouse's net income relates to the combined net income of the taxpayers in the case of tax years beginning on or after January 1, 1991.

**42.15(2) Examples of computation of the Iowa child and dependent care credit.** The following are examples of computation of the child and dependent care credit and the allocation of the credit between spouses in situations where married taxpayers have filed joint federal returns and are filing separate Iowa returns or are filing separately on the combined Iowa return form. ~~For tax years beginning on or after January 1, 1991, the taxpayers' net incomes are used to compute the Iowa child and dependent care credit and allocate the credit between spouses in situations where the taxpayers file separate Iowa returns or separately on the combined return form.~~

EXAMPLE A: A married couple has filed a joint federal return on which they showed a federal adjusted gross income of \$40,000 or a combined net income of \$40,000 on their state return for the tax year beginning January 1, 2007. Both spouses were employed. They had a federal child and dependent care credit of \$600 which related to expenses incurred for care of their two small children. One of the spouses had a federal adjusted gross income of \$30,000 or a net income of \$30,000 and the second spouse had a federal adjusted gross income of \$10,000 or a net income of \$10,000.

The taxpayers' Iowa child and dependent care credit was \$180 since they were entitled to an Iowa child and dependent care credit of 30 percent of their federal credit of \$600. If the taxpayers elect to file separate Iowa returns, the \$180 credit would be allocated between the spouses on the basis of each spouse's net income as it relates to the combined net income of both spouses as shown below:

$$\begin{aligned}
 & \$180 \times \frac{\$30,000}{\$40,000} = \$135 \quad \text{child and dependent care credit for spouse} \\
 & \hspace{10em} \text{with \$30,000 net income for 2007} \\
 \\
 & \$180 \times \frac{\$10,000}{\$40,000} = \$45 \quad \text{child and dependent care credit for spouse} \\
 & \hspace{10em} \text{with \$10,000 net income for 2007}
 \end{aligned}$$

EXAMPLE B: A married couple filed a joint federal return for 2007 and filed their 2007 Iowa return using the married filing separately on the combined return form filing status separately on a combined

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return. Both spouses were employed. They had a federal child and dependent care credit of \$800 which related to expenses incurred for care of their children. One spouse had a net income of \$25,000 and the other spouse had a net income of \$12,500, so their combined net income was \$37,500.

The taxpayers' Iowa child and dependent care credit was \$320, since they were entitled to an Iowa credit of 40 percent of their federal credit of \$800. The \$320 credit is allocated between the spouses on the basis of each spouse's Iowa net income as it relates to the combined Iowa net income of both spouses as shown below:

$$\$320 \times \frac{\$25,000}{\$37,500} = \$213 \quad \text{child and dependent care credit for spouse with } \$25,000 \text{ Iowa net income for } 2007$$

$$\$320 \times \frac{\$12,500}{\$37,500} = \$107 \quad \text{child and dependent care credit for spouse with } \$12,500 \text{ Iowa net income for } 2007$$

**42.15(3) Computation of the Iowa child and dependent care credit for nonresidents and part-year residents.** Nonresidents and part-year residents who have ~~incomes~~ income from Iowa sources in the tax year may claim child and dependent care credits on their Iowa returns. The percentage of the federal credit allowed is determined based on the nonresident or part-year resident's all-source net income. If the nonresident or part-year resident's all-source net income is \$90,000 or higher, the taxpayer will not qualify for the Iowa child and dependent care credit regardless of the amount of the taxpayer's Iowa-source income. To compute the amount of child and dependent care credit that can be claimed on the Iowa return by a nonresident or part-year resident, the following formula shall be used:

|  |   |   |   |   |
|--|---|---|---|---|
| Federal child and<br>dependent care credit | × | Percentage of federal<br>child and dependent<br>credit allowed on Iowa<br>return from table in<br>subrule 42.15(1)<br><u>based on all-source<br/>net income</u> | × | *Iowa net income<br><hr style="width: 100%; border: 0.5px solid black; margin: 0;"/> Federal adjusted gross<br>income or all-source<br>All-source net<br>income |
|--|---|---|---|---|

\*Iowa net income for purposes of determining the child care credit that can be claimed on the Iowa return by a nonresident or part-year resident taxpayer is the total of ~~the Iowa source incomes~~ Iowa-source income less the Iowa-source Iowa-source adjustments to income as computed on line 26 of the Form Schedule IA 126.

In cases where married taxpayers are nonresidents or part-year residents of Iowa and are filing separate Iowa returns or are filing separately on the combined Iowa return form, the child and dependent care credit allowable on the Iowa return should be allocated between the spouses in the ratio of the Iowa net income of each spouse to the combined Iowa net income of the taxpayers.

**42.15(4) Example of computation of the Iowa child and dependent care credit for nonresidents and part-year residents.** The following is an example of the computation of the Iowa child and dependent care credit for nonresidents and part-year residents.

A married couple lives in Omaha, Nebraska. One of the spouses worked in Iowa and had ~~wages and other income from Iowa sources or an Iowa~~ Iowa-source net income of \$15,000. That spouse had an ~~all-source~~ all-source net income of ~~\$18,000~~ \$20,000. The second spouse had an ~~Iowa~~ Iowa-source net income of \$10,000 and an ~~all-source~~ all-source net income of ~~\$12,000~~ \$15,000. The couple had a combined Iowa-source net income of \$25,000 and a combined all-source net income of \$35,000. The taxpayers had a federal child and dependent care credit of \$800 which related to expenses incurred for the care of their two young children. The taxpayers' Iowa child and dependent care credit is calculated below ~~for the 2007 tax year~~:

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|  |  |   |
|--|--|---|
| Federal<br>child and<br>dependent<br>care credit | Percentage<br>of federal<br>child and<br>dependent<br>credit<br>allowed on<br>Iowa<br>return | Iowa Iowa-source net<br>income                      |
|  |  | All-source All-source<br>net income                 |
| \$800  | × $\frac{50\%}{40\%} = \frac{\$400}{\$320}$  | × $\frac{\$25,000}{\$30,000} = \frac{\$333}{\$229}$ |

The ~~\$333~~ \$229 credit is allocated between the spouses as shown below for the 2007 tax year:

|                              |                               |   |
|------------------------------|-------------------------------|---|
| <u>\$333</u><br><u>\$229</u> | × $\frac{\$10,000}{\$15,000}$ | = <del>\$133</del> <u>\$137</u> for spouse with Iowa<br>source Iowa-source net income<br>of <del>\$10,000</del> <u>\$15,000</u> |
| <u>\$333</u><br><u>\$229</u> | × $\frac{\$15,000}{\$10,000}$ | = <del>\$200</del> <u>\$92</u> for spouse with Iowa<br>source Iowa-source net income<br>of <del>\$15,000</del> <u>\$10,000</u>  |
|                              | <u>\$25,000</u>               |   |

This rule is intended to implement Iowa Code section 422.12C as amended by 2014 Iowa Acts, Senate File 2337.

ITEM 2. Amend rule 701—42.31(422) as follows:

**701—42.31(422) Early childhood development tax credit.** ~~Effective for tax years beginning on or after January 1, 2006, taxpayers~~ Taxpayers may claim a tax credit equal to 25 percent of the first \$1,000 of expenses paid to others for early childhood development for each dependent three to five years of age. The credit is available only to taxpayers whose net income is less than ~~\$45,000~~ \$90,000. If a taxpayer claims the early childhood development tax credit, the taxpayer cannot claim the child and dependent care credit described in rule 701—42.15(422). The early childhood development tax credit is refundable to the extent that the credit exceeds the taxpayer’s income tax liability. ~~For the tax year beginning in the 2006 calendar year only, amounts paid for early childhood development expenses in November and December of 2005 shall be considered paid in 2006 for purposes of computing the credit.~~

For married taxpayers who elect to file separately on a combined form or elect to file separate returns for Iowa tax purposes, the combined net income of the taxpayers must be less than ~~\$45,000~~ \$90,000 to be eligible for the credit. If the combined net income is less than ~~\$45,000~~ \$90,000, the early childhood development tax credit shall be prorated to each spouse in the proportion that each spouse’s respective net income bears to the total combined net income.

Nonresidents and part-year residents who have income from Iowa sources in the tax year may claim the early childhood development tax credit on their Iowa returns. If the taxpayer’s all-source net income is \$90,000 or higher, the taxpayer will not qualify for the credit. Nonresidents or part-year residents of Iowa must determine the early childhood development tax credit in the ratio of their Iowa-source net income to their all-source net income. In addition, if nonresidents or part-year residents of Iowa are married and elect to file separate returns or to file separately on a combined Iowa return, the early childhood development tax credit must be allocated between the spouses in the ratio of each spouse’s Iowa-source net income to their combined Iowa-source net income.

**42.31(1) Expenses eligible for the credit.** The following expenses qualify for the early childhood development tax credit, to the extent they are paid during the time period that a dependent is either three, four, or five years of age:

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a. Expenses for services provided by a preschool, as defined in Iowa Code section 237A.1. The preschool may only provide services for periods of time not exceeding three hours per day.

b. Books that improve child development, including textbooks, music books, art books, teacher editions, and reading books.

c. Expenses paid for instructional materials required to be used in a child development or educational lesson activity. These materials include, but are not limited to, paper, notebooks, pencils, and art supplies. In addition, software and toys which are directly and primarily used for educational or learning purposes are considered instructional materials.

d. Expenses paid for lesson plans and curricula.

e. Expenses paid for child development and educational activities outside the home. These activities include, but are not limited to, drama, art, music, and museum activities, including the entrance fees for such activities.

**42.31(2)** *Expenses not eligible for the credit.* The following expenses do not qualify for the early childhood development tax credit:

a. Any expenses, including expenses paid to a preschool, once a dependent reaches the age of six.

b. Expenses relating to food, lodging, membership fees, or other nonacademic expenses relating to child development and educational activities outside the home.

c. Expenses related to services, materials, or activities for the teaching of religious tenets, doctrines, or worship, in cases where the purpose of the teaching is to inculcate the religious tenets, doctrines, or worship.

This rule is intended to implement Iowa Code section 422.12C.

[Filed 12/22/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6148C**

**REVENUE DEPARTMENT[701]**

**Adopted and Filed**

**Rule making related to optional designation of funds by taxpayers**

The Revenue Department hereby amends Chapter 43, "Assessments and Refunds," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 422.12D, 422.12K, 422.12L and 422.68 and 2021 Iowa Acts, Senate File 619, sections 77 and 78.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 422.12D, 422.12E, 422.12H, 422.12K and 422.12L and 2021 Iowa Acts, Senate File 619, sections 77 and 78.

*Purpose and Summary*

This rule making is intended to implement statutory changes to Iowa Code sections 422.12D and 422.12L as enacted by 2021 Iowa Acts, Senate File 619, sections 77 and 78. Additionally, this rule making removes obsolete language and makes a number of changes to improve the clarity of the rule.

REVENUE DEPARTMENT[701](cont'd)

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as **ARC 6033C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on December 22, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making action is adopted:

Amend rule 701—43.4(68A,422,456A) as follows:

**701—43.4(68A,422,456A) Optional designations of funds by taxpayer.****43.4(1) Iowa fish and game protection fund.**

*a.* The A taxpayer filing an individual income tax return may designate an amount a checkoff of \$1 or more to be donated to the Iowa fish and game protection fund. The donation must be \$1 or more, and the designation must be made on the original return for the current year. The donation is allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, and other state agencies have been satisfied. The designation to the fund is irrevocable and cannot be made on an amended return. If the amount of refund claimed overpayment shown on the original return or the payment remitted with the return is adjusted by the department insufficient to pay the amount designated to the Iowa fish and game protection fund, the amount of the designation credited to the fund may be adjusted will be reduced accordingly. The designation to the fund is irrevocable and cannot be made on an amended return.

## REVENUE DEPARTMENT[701](cont'd)

EXAMPLE A: Overpayment as shown on the ~~original~~ return is \$50. \$25 is designated to the fund. Due to an error on the return, only \$20 is an overpayment. The taxpayer would not receive any refund, and all \$20 of the overpayment would be credited to the fund.

EXAMPLE B: Overpayment as shown on the ~~original~~ return is \$50. \$25 is designated to the fund. Due to an error on the return, no overpayment occurred, but instead the taxpayer owes \$20. No money would be credited to the fund ~~in this instance~~.

EXAMPLE C: Amount shown due on the return is \$30. \$20 is designated to the fund. A \$50 payment was made with the return. Due to an error on the return, the taxpayer owes \$40. Only \$10 would be credited to the fund ~~in this situation~~.

b. A designation to the Iowa fish and game protection fund may be allowed only after the taxpayer's obligations to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, and other state agencies are satisfied.

c. On or before January 31 of the year following each year in which returns with the Iowa fish and game protection fund checkoff are due, the department of revenue shall certify the amount designated to the Iowa fish and game protection fund and report this amount to the state treasurer.

~~43.4(2) Iowa election campaign fund.~~ For tax years beginning before January 1, 2017, a person with a tax liability of \$1.50 or more on the Iowa individual income tax return may direct or designate that a \$1.50 contribution be made to a specific political party or that the contribution be made to the Iowa election campaign fund to be shared by all political parties as clarified further in this paragraph. In the case of married taxpayers filing a joint Iowa individual return with a tax liability of \$3.00 or more, each spouse may direct or designate that a \$1.50 contribution be made to a specific political party or that a \$1.50 contribution be made to the Iowa election campaign fund as a contribution to be shared by all political parties. The designation or direction of a contribution to a political party or to the election campaign fund is irrevocable and cannot be changed on an amended return. The designation to a political party or the election campaign fund is allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts and other state agencies are satisfied. Note that for purposes of this subrule, "political party" means a party as defined in Iowa Code section 43.2.

In a tax year beginning before January 1, 2017, when there are two political parties for purposes of the Iowa election campaign fund, all undesignated contributions to the fund made on individual income tax returns for that tax year are to be divided equally between the two parties. In a tax year beginning before January 1, 2017, where there are more than two political parties for purposes of the Iowa election campaign fund, all undesignated contributions to the fund made on income tax returns for that tax year are to be divided among the political parties on the basis of the number of registered voters for a particular political party on December 31 of that tax year to the total number of registered voters on December 31 of that tax year that have declared an affiliation with any of the recognized political parties.

Thus, if there were 400,000 registered voters for "x" political party, 500,000 registered voters for "y" political party, and 100,000 registered voters for "z" political party on December 31 of a tax year beginning before January 1, 2017, where there were three recognized political parties, 40 percent of the undesignated political contributions on that year's returns would be paid to "x" political party since 40 percent of the registered voters with an affiliation to a political party on December 31 had an affiliation with party "x" on that day.

~~43.4(3)~~ 43.4(2) State fair foundation fund checkoff.

a. A taxpayer filing a state an individual income tax return can may designate a checkoff of \$1 or more to be donated to the foundation fund of the Iowa state fair foundation. If the overpayment shown on the return or the payment made remitted with the filing of the return is not sufficient insufficient to cover pay the amount designated to the foundation fund checkoff, the amount credited to the foundation fund checkoff will be reduced accordingly. The designation to the foundation fund checkoff is irrevocable and cannot be made on an amended return.



## REVENUE DEPARTMENT[701](cont'd)

b. A designation to the Iowa state fair foundation fund checkoff may be allowed only after ~~obligations of the taxpayer~~ taxpayer's obligations to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, and the Iowa fish and game protection fund checkoff are satisfied.

c. On or before January 31 of the year following ~~the each~~ year in which returns with the Iowa state fair foundation fund checkoff are due, the department of revenue shall transfer the total amount designated to the Iowa state fair foundation fund.

~~43.4(4) Limitation of checkoffs on the individual income tax return.~~ For tax years beginning on or after January 1, 2019, no more than four checkoffs are allowed on the individual income tax return. The election campaign fund checkoff is not considered for purposes of limiting the number of checkoffs on the income tax return.

~~For tax years beginning on or after January 1, 2017, when the same four checkoffs have been provided on the income tax return for two consecutive years, the two checkoffs for which the least amount has been contributed in the aggregate for the first year and through March 15 of the second tax year will be repealed.~~

~~If more checkoffs are enacted in the same session of the general assembly than there is space for inclusion on the individual income tax return form, the earliest enacted checkoffs for which there is space will be included on the income tax return form, and all other checkoffs enacted during that session of the general assembly are repealed. If the same session of the general assembly enacts more checkoffs on the same day than there is space for inclusion on the individual income tax form, the director of revenue shall determine which checkoffs shall be included on the individual income tax form.~~

~~43.4(5)~~ 43.4(3) Child abuse prevention program fund checkoff.

a. A taxpayer filing an individual income tax return ~~can~~ may designate a checkoff of \$1 or more to be donated to the child abuse prevention program fund. If the ~~refund due~~ overpayment shown on the return or the payment remitted with the return is insufficient to pay the ~~additional~~ amount designated by the taxpayer to the child abuse prevention program fund, the amount credited to the child abuse prevention program fund will be reduced accordingly. ~~Once the taxpayer has designated a contribution to the child abuse prevention program fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation. The designation to the child abuse prevention program fund is irrevocable and cannot be made on an amended return.~~

b. A designation to the child abuse prevention program fund ~~checkoff~~ may be allowed only after ~~obligations of the taxpayer~~ taxpayer's obligations to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa fish and game protection fund checkoff, and the state fair foundation fund checkoff are satisfied.

c. On or before January 31 of the year following ~~the each~~ year in which ~~Iowa income tax~~ returns with ~~contributions to the child abuse prevention program fund~~ checkoff are due, the department of revenue shall transfer the total amount designated to the child abuse prevention program fund.

~~43.4(6)~~ 43.4(4) Joint veterans trust fund and volunteer fire fighter preparedness fund checkoff.

a. A taxpayer filing an individual income tax return ~~can~~ may designate a checkoff of \$1 or more to be donated jointly to the joint veterans trust fund and volunteer fire fighter preparedness fund. If the ~~refund due~~ overpayment shown on the return or the payment remitted with the return is insufficient to pay the ~~additional~~ amount designated by the taxpayer to the joint veterans trust fund and volunteer fire fighter preparedness fund, the amount credited to the joint veterans trust fund and volunteer fire fighter preparedness fund will be reduced accordingly. ~~Once the taxpayer has designated a contribution to the joint veterans trust fund and volunteer fire fighter preparedness fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation. The designation to the veterans trust fund and volunteer fire fighter preparedness fund is irrevocable and cannot be made on an amended return.~~

REVENUE DEPARTMENT[701](cont'd)

*b.* A designation to the ~~joint~~ veterans trust fund and volunteer fire fighter preparedness fund checkoff may be allowed only after ~~obligations of the taxpayer~~ taxpayer's obligations to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa fish and game protection fund checkoff, the state fair foundation fund checkoff, and the child abuse prevention program fund checkoff are satisfied.

*c.* On or before January 31 of the year following ~~the~~ each year in which Iowa income tax returns with ~~contributions to the joint~~ veterans trust fund and volunteer fire fighter preparedness fund checkoff are due, the department of revenue shall transfer one-half of the total amount designated to the veterans trust fund, and the remaining one-half will be transferred to the volunteer fire fighter preparedness fund.

**43.4(5) Limitation of checkoffs on the individual income tax return.**

*a.* Only four checkoffs may be included on the individual income tax return for a given tax year. For tax years beginning on or after January 1, 2017, if the same four checkoffs have been listed on the individual income tax return for two consecutive years, the two checkoffs that, in the aggregate, have received the lowest contribution amounts are repealed effective December 31 after the end of the second tax year and will be removed from the individual income tax return. To determine contribution amounts, the department will consider the contributions made to each fund for the first tax year and contributions made to each fund up to and including March 15 after the end of the second tax year. The department will notify the Iowa Code editor of the checkoffs that are repealed under this paragraph by July 1 after the end of the second tax year.

EXAMPLE: Checkoffs A, B, C, and D are included on the individual income tax return for tax years 2021 and 2022. Taxpayers will begin filing their 2021 tax returns in January 2022. To determine which two checkoffs received the lowest contribution amounts, the department will review the contributions received in the period January 1, 2022, through March 15, 2023 (March 15 after the end of the second tax year).

*b.* If the general assembly, in the same legislative session, enacts more checkoffs than may be included on the individual income tax form, only the earliest enacted checkoffs will be listed on the form. The department will determine which enacted checkoffs will be included on the form pursuant to Iowa Code section 3.7. If it is indeterminable which checkoffs were first enacted under Iowa Code section 3.7, the director of revenue shall determine the checkoffs that will be included on the individual income tax form. The department will notify the Iowa Code editor of any checkoffs that must be repealed under this paragraph by September 1 of any applicable year.

This rule is intended to implement Iowa Code sections 422.12D, 422.12E, 422.12H, 422.12I, 422.12K and 422.12L; 2016 Iowa Acts, House File 2459, and; 2017 Iowa Acts, House File 242; 2019 Iowa Acts, House File 779; and 2021 Iowa Acts, Senate File 619.

[Filed 12/22/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6132C**

**TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

**Rule making related to warning lights on non-State-owned vehicles or equipment used in road work zones**

The Transportation Department hereby adopts new Chapter 135, "Warning Lights on Vehicles or Equipment Not Owned and Operated by the Department When Used in Road Work Zones," Iowa Administrative Code.

TRANSPORTATION DEPARTMENT[761](cont'd)

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.423(7)“a” as amended by 2021 Iowa Acts, House File 654, section 5.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 321.423(7)“a” as amended by 2021 Iowa Acts, House File 654, section 5.

*Purpose and Summary*

This rule making adopts new Chapter 135 in accordance with 2021 Iowa Acts, House File 654, section 5. This new chapter allows non-State-owned vehicles and equipment to display flashing white lights within road work zones. The white lights are needed to help reduce the number of crashes involving construction vehicles and equipment on or adjacent to the roadway. The white lights will make non-State-owned vehicles and equipment more visible to other road workers and roadway users.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 3, 2021, as **ARC 6014C**. No public comments were received. Two changes from the Notice have been made. The references to 2021 Iowa Acts, House File 654, section 5, have been removed from subrule 135.1(1) and the chapter implementation sentence because that legislation has been codified.

*Adoption of Rule Making*

This rule making was adopted by the Department on December 15, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

*Jobs Impact*

After analysis and review of this rule making, there is a potential positive impact on jobs. Allowing non-State-owned vehicles and equipment to display flashing lights within road work zones will potentially increase the safety of road workers.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making action is adopted:

TRANSPORTATION DEPARTMENT[761](cont'd)

Adopt the following new 761—Chapter 135:

CHAPTER 135

WARNING LIGHTS ON VEHICLES OR EQUIPMENT NOT OWNED AND OPERATED BY THE  
DEPARTMENT WHEN USED IN ROAD WORK ZONES

**761—135.1(321) Warning lights on vehicles or equipment in road work zones.**

**135.1(1) Purpose.** The purpose of this rule is to establish the eligibility of vehicles or equipment that are not owned or operated by the department to use flashing white lights in accordance with Iowa Code section 321.423(7) “a.”

**135.1(2) Eligibility.** A vehicle or other equipment that is not owned or operated by the department may use a flashing white light while the vehicle or other equipment is being used in road work zones on state or local highways.

**135.1(3) Information.** Information regarding this rule is available from the Construction and Materials Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by telephone at (515)239-1352.

This rule is intended to implement Iowa Code section 321.423(7) “a.”

[Filed 12/15/21, effective 2/16/22]

[Published 1/12/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

**ARC 6124C**

**UTILITIES DIVISION[199]**

**Adopted and Filed**

**Rule making related to regulation of electric cooperatives**

The Utilities Board hereby amends Chapter 27, “Regulation of Electric Cooperatives and Municipal Electric Utilities Under Iowa Code Chapter 476,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 476.1A and 476.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 476.1A.

*Purpose and Summary*

This rule making rescinds paragraph 27.1(2)“o.” That paragraph established the Board’s jurisdiction over allegations of unreasonable preference or advantage pursuant to Iowa Code section 476.1A(3) against rural electric cooperatives. Based on an objection from the Iowa Association of Electric Cooperatives (IAEC) stating that complaints under this statute are not within the Board’s jurisdiction, the Board has reconsidered the statute and has determined that there is sufficient ambiguity in the language in Iowa Code section 476.1A that the Board should rescind the paragraph.

On December 8, 2021, the Board issued an order adopting amendments. The order is available on the Board’s electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2021-0027.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 3, 2021, as **ARC 6013C**.

## UTILITIES DIVISION[199](cont'd)

Comments were filed by the Office of Consumer Advocate (OCA) and the IAEC. The IAEC supported the rescission. The OCA had no comment on the rescission but did comment on other provisions of Chapter 27. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on December 8, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

No waiver provision is included in these amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 27.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 16, 2022.

The following rule-making action is adopted:

Rescind paragraph **27.1(2)“o.”**

[Filed 12/9/21, effective 2/16/22]

[Published 1/12/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.

| AGENCY                  | RULE  | RESCISSION  |
|-------------------------|-------|---|
| Revenue Department[701] | 155.1 | Pursuant to <u>2021 Iowa Acts, Senate File 367, section 10</u> , effective January 1, 2022. |