



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

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

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

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

Schedule for Rule Making 2021

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
18	Friday, February 5, 2021	February 24, 2021
19	Friday, February 19, 2021	March 10, 2021
20	Friday, March 5, 2021	March 24, 2021

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****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, February 5, 2021, at 9 a.m. in Room 103, State Capitol, Des Moines, Iowa. Instructions for participation by videoconference can be found here: www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705. For more information, contact Jack Ewing at Jack.Ewing@legis.iowa.gov. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Petitions for rule making, 5.1, 5.4 Notice **ARC 5378C** 1/13/21
 Waivers, 9.1, 9.4, 9.6, 9.9, 9.10, 9.13, 100.1, 117.21(1), 118.16(1) Filed **ARC 5391C** 1/13/21

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"

Administrative actions unit; permit general requirements; contested cases, 4.2, amendments
 to ch 10 Filed **ARC 5392C** 1/13/21
 Waivers, 19.1 Filed **ARC 5393C** 1/13/21

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

Waivers, amendments to ch 12 Filed **ARC 5394C** 1/13/21

CORRECTIONS DEPARTMENT[201]

Waivers, amendments to chs 7, 50, 51 Notice **ARC 5376C** 1/13/21

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Clinical examinations on manikins, 11.5(2), 11.6 Notice **ARC 5382C** 1/13/21
 Expanded functions—placement of sealants by dental assistants, 23.6 Notice **ARC 5381C** 1/13/21

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Accelerated career education program, amendments to ch 20 Notice **ARC 5387C** 1/13/21
 Entrepreneur investment awards program, 102.3, 102.4, 102.7(1) Notice **ARC 5386C** 1/13/21

HUMAN SERVICES DEPARTMENT[441]

Kinship caregiver program, 156.1, 156.7, 156.8(5), 202.1, 202.4(3)"a" Notice **ARC 5406C** 1/27/21

INSPECTIONS AND APPEALS DEPARTMENT[481]

Consumable hemp products, ch 32 Filed **ARC 5404C** 1/27/21

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Comprehensive review of rules, amendments to chs 2, 5, 40, 41, 44 to 46, 48, 99, 100,
Notice **ARC 5389C** 1/13/21
 Credit for reinsurance, 5.33, 112.7(1)"e" Notice **ARC 5388C** 1/13/21

IOWA PUBLIC INFORMATION BOARD[497]

Delegation of advisory opinions, 1.3(2) Notice **ARC 5377C** 1/13/21

LAW ENFORCEMENT ACADEMY[501]

Law enforcement officers and reserve peace officers—training, emergency care providers,
 1.1, 2.1, 3.2, 3.8(4)"d," 6.2, 8.1(6), 10.206(5), ch 14 Notice **ARC 5402C** 1/27/21

NATURAL RESOURCES DEPARTMENT[561]

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 Special nonresident deer and turkey hunting licenses—removal of legislative committee,
 12.2, 12.4 to 12.7, 12.10 Notice **ARC 5379C** 1/13/21

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Pharmacy technicians, 3.1, 3.3, 3.8 to 3.11, 3.21 to 3.24, 3.30, 3.31, 6.9(3) Notice **ARC 5373C** 1/13/21
 Pharmacy support persons, amendments to ch 5 Notice **ARC 5374C** 1/13/21

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

COMMERCE DEPARTMENT[181]"umbrella"

Waivers; licensure; criminal convictions, amend chs 5, 14; adopt ch 15 Notice **ARC 5400C** 1/27/21

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Dietitians—licensure, telehealth visits, 81.4, 81.5(2), 81.7, 81.17 Filed **ARC 5405C** 1/27/21
 Optometrists—use of injectables, 182.5 to 182.7 Notice **ARC 5383C** 1/13/21

PUBLIC SAFETY DEPARTMENT[661]

Devices and methods to test body fluids for alcohol or drugs, 157.2(2), 157.5(2), 157.7

Filed **ARC 5407C** 1/27/21
 Flammable and combustible liquids, amendments to ch 221 Filed **ARC 5408C** 1/27/21
 Aboveground flammable or combustible storage tanks, amendments to ch 224 Filed **ARC 5409C** 1/27/21
 Commercial explosive contractor and blaster licensure, amendments to ch 235 Filed **ARC 5395C** 1/13/21
 Fire protection and alarm system contractor and technician licensure, amendments to chs
 275 to 277 Filed **ARC 5396C** 1/13/21

REVENUE DEPARTMENT[701]

Powers of attorney; tax information disclosure designation, 5.7, 5.11, 7.6, 7.34 Notice **ARC 5398C** 1/27/21
 Broadband infrastructure grant exemption, 40.84, 53.28, 59.30 Notice **ARC 5399C** 1/27/21
 Collection of court debt, ch 155 Filed Emergency After Notice **ARC 5390C** 1/13/21

SCHOOL BUDGET REVIEW COMMITTEE[289]

EDUCATION DEPARTMENT[281]"umbrella"

Applications for modified supplemental amounts, 6.3(3)"k" Notice **ARC 5401C** 1/27/21**SECRETARY OF STATE[721]**Petitions for rule making; waivers, amendments to chs 8, 10 Notice **ARC 5397C** 1/27/21**TRANSPORTATION DEPARTMENT[761]**

Definition of "vertical infrastructure," 180.2, 180.3 Notice **ARC 5375C** 1/13/21
 Driver's license—issuance, examination, 602.11(1), 602.12(1), 602.13(1), 604.50, 605.15(1),
 605.26, 607.16 Notice **ARC 5384C** 1/13/21
 Sanctions, 615.3, 615.15, 615.21(1), 615.26, 615.38, 615.40, 615.43 to 615.45 Notice **ARC 5385C** 1/13/21

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Hazardous liquid pipelines and underground storage, amendments to ch 13 Notice **ARC 5403C** 1/27/21

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Waylon Brown
2415 Highway 218
Osage, Iowa 50461

Senator Jesse Green
2344 360th Street
Harcourt, Iowa 50544

Senator Robert Hogg
P.O. Box 1361
Cedar Rapids, Iowa 52406

Senator Pam Jochum
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Dubuque, Iowa 52001

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Representative Amy Nielsen
North Liberty, Iowa

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

Representative Mike Sexton
2202 Ogden Avenue
Rockwell City, Iowa 50579

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

NOTE: See also the Advisory Notice on page 1695.

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Petitions for rule making, 5.1, 5.4
IAB 1/13/21 ARC 5378C

Via conference call
Dial: 1.866.685.1580
Conference code: 0009991200

February 2, 2021
12 noon to 1 p.m.

CORRECTIONS DEPARTMENT[201]

Waivers, amendments to chs 7,
50, 51
IAB 1/13/21 ARC 5376C

Via conference call
Contact Michael Savala
Email: michael.savala@iowa.gov

February 2, 2021
9 to 10 a.m.
(If requested)

INSURANCE DIVISION[191]

Comprehensive review of rules,
amendments to chs 2, 5, 40, 41,
44 to 46, 48, 99, 100,
IAB 1/13/21 ARC 5389C

Via conference call
Contact Tracy Swalwell
Email: tracy.swalwell@iid.iowa.gov

February 4, 2021
9 a.m.
(If requested)

Credit for reinsurance, 5.33,
112.7(1)“e”
IAB 1/13/21 ARC 5388C

Via Webex
Dial: 1.408.418.9388
Access code: 179 697 7254

February 4, 2021
10 a.m.

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]

Contribution rates; terms and
requirements; death benefits
and beneficiaries; open
and confidential records,
amendments to chs 4, 5, 11 to
14, 17, 19
IAB 12/30/20 ARC 5359C

Via conference call
Dial: 312.626.6799
Meeting ID number: 899 3701 7925
Pass code: 9614219527

January 29, 2021
9 a.m.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Waivers; licensure; criminal
convictions, amend chs 5, 14;
adopt ch 15
IAB 1/27/21 ARC 5400C

Bureau Offices, Suite 350
200 E. Grand Ave.
Des Moines, Iowa 50309

February 18, 2021
10 to 11 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Optometrists—use of injectables,
182.5 to 182.7
IAB 1/13/21 ARC 5383C

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

February 2, 2021
10 to 10:30 a.m.

SCHOOL BUDGET REVIEW COMMITTEE[289]

Applications for modified
supplemental amounts,
6.3(3)“k”
IAB 1/27/21 ARC 5401C

Via video participation
[IDOE.zoom.us/j/98731571298?pwd=VnNoT2dUOHVVBVhdJSTg1MGFHV3I5QT09](https://idoe.zoom.us/j/98731571298?pwd=VnNoT2dUOHVVBVhdJSTg1MGFHV3I5QT09)

February 16, 2021
8 to 8:30 a.m.

TRANSPORTATION DEPARTMENT[761]

<p>Definition of “vertical infrastructure,” 180.2, 180.3 IAB 1/13/21 ARC 5375C</p>	<p>Via conference call Contact Tracy George Email: tracy.george@iowadot.us</p>	<p>February 4, 2021 1 to 2 p.m. (If requested)</p>
<p>Driver’s license—issuance, examination, 602.11(1), 602.12(1), 602.13(1), 604.50, 605.15(1), 605.26, 607.16 IAB 1/13/21 ARC 5384C</p>	<p>Via conference call Contact Tracy George Email: tracy.george@iowadot.us</p>	<p>February 4, 2021 9 to 10 a.m. (If requested)</p>
<p>Sanctions, 615.3, 615.15, 615.21(1), 615.26, 615.38, 615.40, 615.43 to 615.45 IAB 1/13/21 ARC 5385C</p>	<p>Via conference call Contact Tracy George Email: tracy.george@iowadot.us</p>	<p>February 4, 2021 10:30 to 11:30 a.m. (If requested)</p>

UTILITIES DIVISION[199]

<p>Hazardous liquid pipelines and underground storage, amendments to ch 13 IAB 1/27/21 ARC 5403C</p>	<p>Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa</p>	<p>April 15, 2021 1:30 to 4:30 p.m.</p>
<p>Regulation of municipal electric utilities and electric cooperatives under Iowa Code chapter 476, ch 27 IAB 11/18/20 ARC 5281C</p>	<p>Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa</p>	<p>February 4, 2021 9 a.m. to 12 noon</p>

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 5406C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to kinship caregiver program
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 156, "Payments for Foster Care," and Chapter 202, "Foster Care Placement and Services," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 234 and section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 234.

Purpose and Summary

This proposed rule making implements the Kinship Caregiver Program (Program), an effort to level the support provided to relatives and kin. The rule making implements a modest monthly payment using state funding only. The Department believes the Program could make the difference between a child remaining with the child's family versus suffering the trauma of being placed with a stranger in a shelter or family foster care.

The Program allows relatives to receive a \$300-a-month stipend for each child in their care, up to six months. A caregiver would be invited to participate in the foster care licensing process in the first two months the caregiver is caring for kin, and the caregiver would be able to receive the kinship caregiver payment for up to six months. Once licensed, the caregiver may also be eligible for supports such as child care, respite, training and caseworker support. Kinship caregivers are not required to become licensed to receive the stipend, though it will be encouraged so they would be eligible for the continued supports outlined above.

When relatives are approved for the Program, the children would be considered to be in foster care and the Department could draw down IV-E administrative costs while claiming for the average length of time it takes to license a foster family while the relatives are pursuing licensure.

Fiscal Impact

In June 2019, the rate of a child's initial placement with a relative was 44.7 percent; in June 2020 it was at 47.2 percent. The number of children in relative placements by month would be approximately 369 for month three, 417 for month four, 374 for month five, 406 for month six, 284 for month seven, and 290 for month eight. Since the payment does not begin until after two consecutive months of placement, month three would be the earliest month the payment is received and six months of payments would not be received until month eight. The estimates were derived based on the \$300 per month, per relative placements by month, which brought the total cost to \$2,132,700. The numbers of relative placements per month were derived on the relative placement percentage of 44.7 percent above.

Jobs Impact

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

HUMAN SERVICES DEPARTMENT[441](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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.7(17A,217).

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 16, 2021. Comments should be directed to:

Nancy Freudenberg
Iowa Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

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. Adopt the following **new** definition of “Kinship caregiver” in rule **441—156.1(234)**:
“*Kinship caregiver*” means, for this chapter only, a person to whom a child is related by blood, marriage, or adoption, or a person who has a significant, committed, positive relationship with the child, who is caring for a child in foster care, pursuant to Iowa Code chapter 232.

ITEM 2. Adopt the following **new** rule 441—156.7(234):

441—156.7(234) Kinship caregiver payment.

156.7(1) A kinship caregiver payment is a monthly payment to financially support the care of a child in a kinship caregiver’s home. If approved by the department, kinship caregiver payment will be provided for a period of up to six months.

156.7(2) All of the following conditions apply:

- a. For each eligible child living in a kinship placement, the monthly payment for the child shall be \$300.
- b. The payment will begin after two consecutive months of the child’s placement in the kinship caregiver’s home. The two-month requirement is waived if the child enters the kinship caregiver’s home immediately following a paid placement for at least 30 days.
- c. The payment will continue for up to six months.
- d. The kinship caregiver payment will be terminated if the child no longer resides in the home.

HUMAN SERVICES DEPARTMENT[441](cont'd)

e. Kinship caregivers who receive a foster care payment are not eligible to receive a kinship caregiver payment.

This rule is intended to implement Iowa Code section 232.102.

ITEM 3. Amend subrule 156.8(5) as follows:

156.8(5) Funeral expense. When a child under the guardianship of the department dies, the department will pay funeral expenses not covered by the child's resources, insurance or other death benefits, the child's legal parents, or the child's county of legal settlement, not to exceed \$650.

~~The total cost of the funeral and the goods and services included in the total cost shall be the same as defined in rule 441—56.3(239,249).~~

The claim shall be submitted by the funeral director to the department on Form GAX, General Accounting Expenditure, and shall be approved by the service area manager. Claims shall be submitted within 90 days after the child's death.

ITEM 4. Adopt the following **new** definition of "Kinship caregiver" in rule **441—202.1(234)**:

"Kinship caregiver" means, for this chapter only, a person to whom a child is related by blood, marriage, or adoption, or a person who has a significant, committed, positive relationship with the child, who is caring for a child in foster care, under court ordered supervision pursuant to Iowa Code chapter 232.

ITEM 5. Amend paragraph **202.4(3)"a"** as follows:

a. If a relative or a suitable person who has a kinship bond with the child will accept placement of the child:

- (1) The person shall sign Form 595-1489, Non-Law Enforcement Record Check Request, ~~and~~.
- (2) The department shall complete record checks as listed in 441—subrule 113.13(1) to evaluate if the person's home is appropriate for the child before making the placement.
- (3) The department worker shall make a referral to the recruitment and retention provider to initiate an informational contact with the kinship caregiver. The recruitment and retention provider will inform the kinship caregiver about the monthly kinship caregiver payment as outlined in rule 441—156.6(234) and explain the process of becoming a licensed foster parent.

ARC 5402C**LAW ENFORCEMENT ACADEMY[501]****Notice of Intended Action****Proposing rule making related to officer training
and providing an opportunity for public comment**

The Law Enforcement Academy hereby proposes to amend Chapter 1, "Organization and Administration," Chapter 2, "Minimum Standards for Iowa Law Enforcement Officers," Chapter 3, "Certification of Law Enforcement Officers," Chapter 6, "Decertification," Chapter 8, "Mandatory In-Service Training Requirements," and Chapter 10, "Reserve Peace Officers," and adopt a new Chapter 14, "Iowa Law Enforcement Emergency Care Provider," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 80B.11 and 80D.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2647.

Purpose and Summary

The Iowa Law Enforcement Academy has completed a review of 2020 Iowa Acts, House File 2647. The proposed changes, recommended by the legislation, include adherence to the new law and changes,

LAW ENFORCEMENT ACADEMY[501](cont'd)

corrections and additions which reflect the current state of the Academy's practice and represents a more accurate reflection of its current curriculum. Proposed Chapter 14 contains language substantially similar to the language that was previously adopted by the Public Health Department in 641—Chapter 139.

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 Iowa Law Enforcement Academy Council for a waiver of the discretionary provisions, if any, pursuant to 501—Chapter 16.

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 Academy no later than 4:30 p.m. on February 16, 2021. Comments should be directed to:

Russell Rigdon
Iowa Law Enforcement Academy
Building 4640
P.O. Box 130
Johnston, Iowa 50131
Email: russell.rigdon@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definitions of “Change in status,” “Continuing education,” “Iowa law enforcement training program,” “Reserve peace officer,” “Respondent,” “Serious misconduct” and “Student” in rule **501—1.1(80B)**:

“*Change in status*” means leaving an agency for any reason, including termination, voluntary resignation, demotion, promotion, suspension, or any other change in position or title.

“*Continuing education*” means training approved by the Iowa law enforcement academy which is obtained by a certified Iowa law enforcement emergency care provider to maintain, improve, or expand relevant skills and knowledge and to satisfy renewal of certification requirements.

LAW ENFORCEMENT ACADEMY[501](cont'd)

“*Iowa law enforcement training program*” means the law enforcement academy or a law enforcement training program approved by the council to conduct ILEECF emergency medical care training.

“*Reserve peace officer*” means a volunteer, nonregular, sworn member of a law enforcement agency who serves with or without compensation, has regular police powers while functioning as a law enforcement agency’s representative, and participates on a regular basis in the law enforcement agency’s activities including crime prevention and control, preservation of the peace, and enforcement of law.

“*Respondent*” means any individual who is charged in a complaint with violating the criteria of professional practices or the criteria of competent performance.

“*Serious misconduct*” means improper or illegal actions taken by a law enforcement officer in connection with the officer’s official duties including but not limited to a conviction for a felony, fabrication of evidence, repeated use of excessive force, acceptance of a bribe, or the commission of fraud.

“*Student*” means any individual enrolled in a training program and participating in the didactic or psychomotor portions.

ITEM 2. Adopt the following **new** subrule 2.1(12):

2.1(12) Has not been previously decertified in another jurisdiction.

ITEM 3. Adopt the following **new** subrule 2.1(13):

2.1(13) Has not committed any act that could result in decertification under 501—Chapter 6.

ITEM 4. Amend rule 501—3.2(80B) as follows:

501—3.2(80B) Law enforcement status forms furnished to academy. Within ten days of any of the following occurrences, the academy will be so advised by use of prescribed forms:

1. Any hiring ~~or termination~~ of personnel.

2. to 4. No change.

5. Any termination of employment of a law enforcement officer or appointment as a reserve peace officer. The notification must state whether the law enforcement officer or reserve peace officer was discharged or removed for serious misconduct or whether the officer left, voluntarily quit, or was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer being discharged or removed for serious misconduct. Upon request by the council, the employing agency shall provide any additional information or documentation about the officer including confidential records or information under Iowa Code section 22.7 or other applicable law to the council.

ITEM 5. Adopt the following **new** paragraph **3.8(4)“d”**:

d. Submission of a preliminary application for certification through examination to the council. A preliminary application for certification shall adhere to the requirements set out in Iowa Code section 80B.11F, as well as any additional requirements set out by the Iowa law enforcement academy.

ITEM 6. Amend subrule 6.2(1) as follows:

6.2(1) Mandatory revocation. The council shall revoke a law enforcement officer’s certification or a reserve peace officer’s certification ~~if~~ upon a finding that the law enforcement officer or reserve peace officer has done any of the following:

a. The law enforcement officer or reserve peace officer ~~pleads~~ pled guilty to or is was convicted of a felony;

b. The law enforcement officer or reserve peace officer ~~manufactures, sells, or conspires manufactured, sold, or conspired~~ to manufacture or sell an illegal drug other than an authorized act in connection with official duties;

c. The law enforcement officer or reserve peace officer ~~pleads~~ pled guilty to or is was convicted of a crime constituting a misdemeanor crime of domestic violence or other domestic abuse including other offenses or lesser included offenses stemming from domestic abuse;

d. The law enforcement officer or reserve peace officer ~~pleads~~ pled guilty to or is was convicted of any offense classified as a tier I, tier II, or tier III sex offense in Iowa Code chapter 692A;

LAW ENFORCEMENT ACADEMY[501](cont'd)

e. The law enforcement officer or reserve peace officer was discharged for serious misconduct, as defined by Iowa Code section 80B.13A(1) "b," from employment as a law enforcement officer;

f. The law enforcement officer or reserve peace officer left, voluntarily quit, or was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the law enforcement officer being discharged or the reserve officer being removed for serious misconduct, if the council determined that the officer engaged in serious misconduct;

g. The law enforcement officer or reserve peace officer was convicted or pled guilty to any offense under prior laws of this state or another jurisdiction, or any offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in paragraphs 6.2(1) "a" to "d."

ITEM 7. Amend subrule 6.2(2) as follows:

6.2(2) Discretionary revocation. The director or the director's designee shall have the authority to conduct a preliminary inquiry and shall have the authority to determine which matters shall be referred to the council for consideration. The council, at its discretion, may revoke or suspend a law enforcement officer's or a reserve peace officer's certification under any of the following circumstances:

a. The law enforcement officer or reserve peace officer has been discharged for "good cause" from employment as a law enforcement officer or from appointment as a reserve peace officer.

b. The law enforcement officer or reserve peace officer leaves, voluntarily quits, or the officer's position is eliminated when disciplinary action was imminent or pending which could have resulted in the law enforcement officer being discharged or the reserve peace officer being removed for "good cause."

c. The law enforcement officer's or reserve peace officer's current or former employing agency recommends to the council that revocation or suspension would be appropriate with regard to a current or former employee. A recommendation by the law enforcement officer's or reserve peace officer's current or former employing agency must be in writing and set forth the reasons why the action is being recommended, the findings of the employing agency concerning the matter, the action taken by the employing agency, and that the action by the agency is final. Upon such a recommendation, the law enforcement officer's or reserve peace officer's current or former employing agency shall provide the Iowa law enforcement academy the following materials within ten days of the recommendation:

(1) The law enforcement officer's or reserve peace officer's personnel file;

(2) The employing agency's internal investigative file;

(3) Any other materials the employing agency used in the determination to make its recommendation.

d. The law enforcement officer or reserve peace officer is recommended for revocation or suspension by the attorney general to the council pursuant to Iowa Code section 13.12.

e. e. The law enforcement officer or reserve peace officer:

(1) Makes, tenders, or certifies to a material false statement in a document prescribed by the academy or otherwise provided for or authorized by these rules, or in any other document intended to induce the academy or the council to take or withhold action.

(2) Falsifies or makes misrepresentations on an employment application submitted to any Iowa law enforcement agency or any other public document required to be completed by the officer.

(3) Testifies falsely in any court of law or administrative hearing about a material issue with the intent to deceive.

(4) Commits any act of moral turpitude as defined in 501—subrule 2.1(5). A copy of the record of conviction of or plea of guilty to a crime of moral turpitude shall be conclusive evidence; however, a conviction or plea of guilty is not required.

(5) Uses or possesses an illegal substance other than in connection with official duties.

(6) Fails to comply with the requirements of 501—Chapters 8 and 10 relative to in-service training.

(7) Is decertified in any other state where the law enforcement officer or reserve peace officer may be certified.

d. f. The law enforcement officer has failed to reimburse the employing agency for costs incurred by that agency, including fees paid to the academy, clothing vendor costs, meal costs, uniform/equipment

LAW ENFORCEMENT ACADEMY[501](cont'd)

costs, and the officer's salary paid during the academy if the officer leaves that agency and is employed by another law enforcement agency within a period of four years following completion of the certification training, under the following conditions:

(1) No change.

(2) A recommendation for decertification must be verified under oath by the administrator of the employing agency with which the officer contracted under this rule. The recommendation for decertification must contain the following information:

1. Have attached a copy of the agreement referred to in subparagraph ~~6.2(2)“d”(1)~~ 6.2(2)“f”(1) above;

2. to 7. No change.

(3) No change.

ITEM 8. Adopt the following **new** subrule 8.1(6):

8.1(6) *De-escalation training.* In addition to the requirements of subrules 8.1(1) to 8.1(5), a regular law enforcement officer must receive a minimum of 4 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.

ITEM 9. Adopt the following **new** subrule 10.206(5):

10.206(5) *De-escalation training.* In addition to the requirements of subrules 10.206(1), 10.206(2) and 10.206(4), a certified reserve peace officer must receive a minimum of 4 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.

LAW ENFORCEMENT ACADEMY[501](cont'd)

- 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.

ITEM 10. Adopt the following new 501—Chapter 14:

CHAPTER 14
IOWA LAW ENFORCEMENT EMERGENCY CARE PROVIDER

501—14.1(80B) Authority of Iowa law enforcement emergency care provider. An Iowa law enforcement emergency care provider may perform skills identified in the Iowa law enforcement emergency care provider curriculum approved by the council.

501—14.2(80B) Iowa law enforcement emergency care providers—certification, renewal standards and procedures, and fees.

14.2(1) Application and examination.

- a. Applicants shall complete an ILEECF student registration form at the beginning of the course. ILEECF student registration forms are provided by the academy.
- b. Upon satisfactory completion of the course and all training program requirements, including successful completion of the state certifying practical examination, the student shall be recommended by the training program to take the state certification written examinations. State certification must be obtained to perform appropriate skills.
- c. The practical examination shall be administered by the training program using the standards and forms provided by the academy.
- d. To be eligible to take the practical examination, the student shall first pass the written examination.
- e. When a student's ILEECF registration is referred to the academy for investigation, the student shall not be certified until approved by the council.
- f. The certifying written examinations shall be administered at times and places determined by the academy.
- g. No oral certification examinations shall be permitted; however, candidates may be eligible for appropriate accommodations.
- h. Practical examination fees shall be determined by the training program.
- i. A student who fails the practical certification examination shall have two additional opportunities to attain a passing score. The student may repeat the failed examination on the same day as determined by the training program. A student who fails a practical station for the third time shall be required to repeat the entire course in order to be eligible for certification.
- j. A student who fails to attain the appropriate overall score on the written certification examination shall have two additional opportunities to complete the entire examination and attain a passing score. Required overall passing score is 70 percent.
- k. All examination attempts shall be completed within one year of the initial course completion date. If a student is unable to complete the testing within one year due to medical reasons, an extension may be granted upon submission of a signed statement from a physician and approval by the council.
- l. Examination scores shall be confidential except that they may be released to the training program that provided the training or released in a manner that does not permit the identification of a student.

14.2(2) Renewal of certification.

- a. A certificate shall be valid for two years from issuance unless specified otherwise on the certificate or unless sooner suspended or revoked.
- b. All continuing education requirements shall be completed during the certification period prior to the certificate's expiration date. Failure to complete the continuing education requirements prior to the expiration date shall result in an expired certification.

LAW ENFORCEMENT ACADEMY[501](cont'd)

c. The application for renewal of certification shall be submitted to the academy within the 90 days prior to the expiration date. Failure to submit a renewal application to the academy within the 90 days prior to the expiration date (based upon the postmark date) shall cause the current certification to expire. Iowa law enforcement emergency care providers shall not function on an expired certification.

An individual who completes the required continuing education during the certification period, but fails to submit the application for renewal of certification within 90 days prior to the expiration date, shall be required to submit a late fee to obtain renewal of certification.

d. An individual who has not completed the required continuing education during the certification period and is seeking to reinstate an expired certificate shall complete a refresher course approved by the academy and pass the practical and written certification examinations.

e. If an individual is unable to complete the required continuing education during the certification period due to an illness or injury, an extension of certification may be issued upon submission of a signed statement from a physician and approval by the council.

14.2(3) *Renewal standards.* To be eligible for renewal, the certificate holder shall:

a. Have signed and submitted an application for renewal of certification, provided by the academy, within the 90 days prior to the certificate's expiration date.

b. Have a current CPR course completion card or a signed and dated statement from a recognized CPR instructor that documents current course completion in CPR and AED.

c. Have completed four continuing education hours during the certification period including a minimum of one hour in each of the following topics:

- (1) Infectious diseases;
- (2) Trauma emergencies;
- (3) Medical emergencies.

d. Maintain a file containing documentation of continuing education hours accrued during each certification period and retain this file for four years from the end of each certification period.

501—14.3(80B) Iowa law enforcement training programs.

14.3(1) The training program shall use the course curricula approved by the council for an Iowa law enforcement emergency care provider and shall include, as a minimum, the following course components:

- a. Twenty-four hours of classroom instruction;
- b. Practical and written examinations.

14.3(2) An individual currently certified by the department of public health or the national registry as a first responder, emergency medical care provider, emergency medical responder, emergency medical technician, emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, critical care paramedic, or other similar credential may request Iowa law enforcement emergency care provider certification. Such a request must be made in writing to the academy with documentation of credentials as an Iowa peace officer.

These rules are intended to implement Iowa Code chapter 80B.

ARC 5400C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Notice of Intended Action

**Proposing rule making related to waivers and licensure
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to amend Chapter 5, "Waivers and Variances from Rules," Chapter 13, "Public Records and Fair Information Practices," and Chapter 14, "Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members," and to adopt

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

a new Chapter 15, "Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 546.3 and 546.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 304; 2020 Iowa Acts, House File 2389; and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement changes required by 2019 Iowa Acts, Senate File 304; 2020 Iowa Acts, House File 2389; and 2020 Iowa Acts, House File 2627. These amendments include:

- Removal of the term "variance" when it is used to mean a waiver, as required by 2020 Iowa Acts, House File 2389, section 10, which amended Iowa Code section 17A.9A;
- Removal of references in Chapter 14 to the College Student Aid Commission and Iowa Code chapter 261, pursuant to 2020 Iowa Acts, Senate File 304, and to the term "spouse" as a result of 2020 Iowa Acts, House File 2627, section 24, which struck Iowa Code section 272C.4(13);
- Addition of a new rule 193—14.4(272C) to set forth the procedures for licensure by verification for applicants who are licensed in other jurisdictions, as set forth in 2020 Iowa Acts, House File 2627;
- Addition of a new rule 193—14.7(272C) to set forth the procedures for licensure by verification for applicants who have relevant work experience in jurisdictions that do not have license requirements, as set forth in 2020 Iowa Acts, House File 2627; and
- Addition of a new Chapter 15 regarding the use of criminal convictions in eligibility determinations and initial licensure decisions, as set forth in 2020 Iowa Acts, House File 2627.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. It is unknown how many individuals would seek an eligibility determination because of a criminal conviction prior to applying. For each eligibility determination, the Bureau will collect a \$25 fee to recover the associated costs, as set forth in 2020 Iowa Acts, House File 2627.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs as individuals who may have been ineligible for licensure may become eligible for licensure as a result of this rule making.

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Bureau no later than 4:30 p.m. on February 18, 2021. Comments should be directed to:

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

Lori SchraderBachar
 Professional Licensing and Regulation Bureau
 200 East Grand Avenue, Suite 350
 Des Moines, Iowa 50309
 Email: lori.schraderbachar@iowa.gov

Public Hearing

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

February 18, 2021
 10 to 11 a.m.

Bureau Offices
 200 East Grand Avenue, Suite 350
 Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **193—Chapter 5**, title, as follows:

WAIVERS AND VARIANCES FROM RULES

ITEM 2. Amend rule 193—5.1(17A,546) as follows:

193—5.1(17A,546) Definitions. For purposes of this chapter, “a waiver ~~or variance~~” means action by a board which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~ “Board” includes every board and commission in the professional licensing and regulation bureau of the banking division of the department of commerce.

ITEM 3. Amend rule 193—5.4(17A,546) as follows:

193—5.4(17A,546) Criteria for waiver ~~or variance~~. In response to a petition completed pursuant to rule 193—5.6(17A,546), a board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

1. to 4. No change.

ITEM 4. Amend subrule 5.11(1) as follows:

5.11(1) The board chair, or vice chair, if the chair is unavailable, may rule on a petition for waiver ~~or variance~~ if (a) the petition was not filed in a contested case, (b) the ruling would not be timely if made at the next regularly scheduled board meeting, and (c) the ruling can be based on board precedent or a reasonable extension of prior board action on similar requests.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

ITEM 5. Amend rule 193—5.13(17A,546) as follows:

193—5.13(17A,546) Summary reports Submission of waiver information. ~~Semiannually~~ Within 60 days of granting or denying a waiver, each board shall ~~prepare a summary report identifying~~ make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests. If practicable, the ~~report~~ submission shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. ~~Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

ITEM 6. Amend subrule 13.8(4) as follows:

13.8(4) Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit of the department of human services; and the centralized collection unit of the department of revenue for state debt, and college student aid commission for the sole purpose of identifying applicants or registrants subject to enforcement under Iowa Code ~~chapter~~ chapters 252J, ~~sections 261.126 and 261.127 and chapter~~ 272D.

ITEM 7. Amend **193—Chapter 13**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 22, and 252J ~~and 261~~.

ITEM 8. Amend **193—Chapter 14**, title, as follows:

MILITARY SERVICE, VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY SERVICE MEMBERS ALTERNATIVE PATHS TO LICENSURE

ITEM 9. Rescind the definition of “Spouse” in rule **193—14.1(272C)**.

ITEM 10. Amend rule 193—14.3(272C) as follows:

193—14.3(272C) Veteran and spouse of active-duty service member reciprocity.

14.3(1) A veteran ~~or spouse~~ with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran ~~or spouse~~ must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran ~~or spouse~~ under this subrule shall be given priority and shall be expedited.

14.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) ~~or spouse of an active-duty service member of the military forces of the United States~~.

14.3(3) to 14.3(7) No change.

ITEM 11. Adopt the following new rule 193—14.4(272C):

193—14.4(272C) Licensure by verification. Licensure by verification is available in accordance with the following:

14.4(1) Eligibility. A person may seek licensure by verification if the person is licensed in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa, and either:

a. The person establishes residency in the state of Iowa; or

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

b. The person is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station to a military installation located in the state of Iowa.

14.4(2) Board application. The applicant must submit the following:

- a.* A completed application for licensure by verification.
- b.* Payment of the application fee.
- c.* Completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, if required for initial licensure by the board.
- d.* A verification form completed by the licensing authority in the jurisdiction that issued the applicant's license, verifying that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.
- e.* Proof of residency in the state of Iowa or proof of military member's official permanent change of station. Proof of residency includes:
 - (1) Residential mortgage, lease, or rental agreement;
 - (2) Utility bill;
 - (3) Bank statement;
 - (4) Paycheck or pay stub;
 - (5) Property tax statement;
 - (6) A federal or state government document; or
 - (7) Any other board-approved document that reliably confirms Iowa residency.
- f.* A copy of the complete criminal record, if the applicant has a criminal history.
- g.* A copy of relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.
- h.* Copies of relevant laws setting forth the scope of practice in the other state.

14.4(3) Applicants with prior discipline. If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

14.4(4) Applicants with pending licensing complaints or investigations. If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

14.4(5) Compact privileges. A person who has a privilege to practice in Iowa by virtue of an interstate licensure compact is ineligible for licensure by verification. Licenses issued pursuant to this rule do not grant privileges to practice in any other jurisdiction pursuant to any interstate licensure compact.

14.4(6) Determination by board. The board shall make the determination of whether to issue a license under this rule based on information supplied by the applicant in the application and on such additional information as the board may acquire, including information or verification from other jurisdictions.

ITEM 12. Reserve rules **193—14.5** and **193—14.6**.

ITEM 13. Adopt the following new rule 193—14.7(272C):

193—14.7(272C) Applicants with work experience in jurisdictions without licensure requirements.

14.7(1) Work experience. An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not require a professional license to practice in the profession may be considered to have met any educational and training requirements if the person has at least three years of work experience with a scope of practice substantially similar to that of the profession for which a license in

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

Iowa is sought. The three years of work experience must be within the four years preceding the date of application for initial licensure. The applicant must satisfy all other requirements, including passing any required examinations, to receive a license.

14.7(2) Required documentation. An applicant who wishes to substitute work experience in lieu of satisfying applicable education or training requirements shall carry the burden of providing all of the following by submitting relevant documents as part of a completed license application:

- a. Proof of Iowa residency, which may include:
 - (1) Residential mortgage, lease, or rental agreement;
 - (2) Utility bill;
 - (3) Bank statement;
 - (4) Paycheck or pay stub;
 - (5) Property tax statement;
 - (6) A document issued by the federal or state government; or
 - (7) Any other board-approved document that reliably confirms Iowa residency.
- b. Proof of three or more years of work experience within the four years preceding the application for licensure, which may include:
 - (1) A letter from the applicant's prior employer documenting the dates of employment;
 - (2) Paychecks or pay stubs;
 - (3) If self-employed, business documents filed with the secretary of state; or
 - (4) Any other board-approved evidence of sufficient work experience.
- c. Proof that the work experience was in a practice with a scope of practice substantially similar to that for the license sought in Iowa, which must include:
 - (1) A written statement by the applicant detailing the scope of practice; and
 - (2) Business or marketing materials detailing the services provided.

ITEM 14. Adopt the following **new** 193—Chapter 15:

CHAPTER 15

USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND INITIAL LICENSING DECISIONS

193—15.1(272C) Definitions. For the purposes of these rules, the following definitions shall apply:

“Complete criminal record” includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“Conviction” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“Disqualifying offense” means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

“License” means any license or registration issued by a board.

193—15.2(272C) License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to rule 193—15.3(272C), the applicant's convictions will be reviewed when the board receives a completed license application.

15.2(1) An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

15.2(2) An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

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15.2(3) An applicant must submit as a part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

15.2(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

15.2(5) An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

15.2(6) Any application fees paid will not be refunded if the license is denied.

193—15.3(272C) Eligibility determination.

15.3(1) An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

15.3(2) To petition the board for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner shall submit all of the following:

- a. A completed petition for eligibility determination form;
- b. The complete criminal record for each of the petitioner's convictions;
- c. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;
- d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
- e. Payment of a nonrefundable fee of \$25.

193—15.4(272C) Appeal. A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board's written decision will become a final order.

15.4(1) An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

15.4(2) The contested case hearing shall be closed to the public and the board's review of a proposed decision shall occur in closed session.

15.4(3) The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner or applicant's convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

15.4(4) A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

193—15.5(272C) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code chapter 272C.

ARC 5398C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to powers of attorney
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 5, “Public Records and Fair Information Practices,” and Chapter 7, “Practice and Procedure Before the Department of Revenue,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 421.59, 422.20 and 422.72.

Purpose and Summary

Through 2020 Iowa Acts, House File 2641, the Legislature created Iowa Code section 421.59, which describes the various methods a taxpayer may use to appoint powers of attorney to work with the Department of Revenue. Prior to the creation of this Iowa Code section, authorized representation was almost exclusively covered only in rule. The new law mandates that the Department adopt rules to administer Iowa Code section 421.59. The proposed amendments update existing rules to reflect the new law, clarify areas of confusion, and modify current procedures to improve administration. The Department’s current rules on powers of attorney are in rules 701—7.6(17A) and 701—7.34(421). New rule 701—7.6(17A,22,421,422) proposed in Item 3 combines and revises the content of the current rules to make it easier to find pertinent information.

The new rule defines the powers that a representative under a power of attorney may utilize, the method a taxpayer may use to file a power of attorney, who may authorize a power of attorney on behalf of a taxpayer, and the process by which a power of attorney may be revoked. Additionally, this rule making outlines those individuals who have authority to act on behalf of a taxpayer, other than via the Department’s power of attorney form, as well as the method and documentation required to be filed to show authority. Item 4 rescinds rule 701—7.34(421), whose content has been integrated into the rule in Item 3.

Section 17 of 2019 Iowa Acts, House File 779, amended Iowa Code sections 422.20 and 422.72 to allow for disclosure of confidential taxpayer information as authorized by the taxpayer and gave the Department permissive authority to establish procedures for authorizing disclosure by rule. New rule 701—5.7(17A,22,421,422) in Item 1 defines the powers that a designee authorized by a tax information disclosure designation form may utilize, the method a taxpayer may use to file a tax information disclosure designation, who may authorize a tax information disclosure designation on behalf of a taxpayer, and the process by which a tax information disclosure designation may be revoked. Item 2 rescinds rule 701—5.11(17A,22), whose content has been integrated into the rule in Item 1. Because the Legislature instructed the Department to establish appropriate procedures by rule, this rule making will replace Agency Procedures for Fair Information Practices uniform rule X.7(17A,22), Consent to disclosure by the subject of a confidential record, as well as rule 701—5.11(17A,22), Consensual disclosure of confidential records. Both the uniform rule and the current Department rule cover the release of confidential information with taxpayer authorization. Through the consolidation of these concepts, taxpayers will have one rule to look to for guidance without losing the protections outlined in Agency Procedures for Fair Information Practices uniform rule X.7(17A,22), Consent to disclosure by the subject of a confidential record, and rule 701—5.11(17A,22).

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Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 16, 2021. Comments should be directed to:

Abigail Sills
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.1140
Email: abigail.sills@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** rule 701—5.7(17A,22,421,422):

701—5.7(17A,22,421,422) Tax information disclosure designation.

5.7(1) Powers authorized. A taxpayer may designate an individual to receive, inspect, and discuss confidential state tax information from the department about the taxpayer. Such designation does not authorize the designee to act or authorize any action on the taxpayer’s behalf in any way other than to receive information and communicate with the department. For transfers of decision-making authority, see Iowa Code section 421.59 and rule 701—7.6(17A).

5.7(2) Contents of the tax information disclosure designation form. A taxpayer must use the department’s tax information disclosure designation form, or other method authorized by the department, to designate an individual to receive, inspect, and discuss confidential state tax information. A tax information disclosure designation form must contain the following information to be valid:

REVENUE DEPARTMENT[701](cont'd)

- a. Legal name and address of the taxpayer;
- b. Identification number of the taxpayer (i.e., social security number (SSN), federal identification number (FEIN), or any federal- or Iowa-issued tax identification number);
- c. Name, mailing address, and preparer's tax identification number (PTIN), FEIN, SSN, individual taxpayer identification number (ITIN), Iowa department of revenue-issued account number (IAN) of the representative, or an indication that an IAN is being requested;
- d. Description of the matter(s) for which disclosure is authorized, which may include:
 - (1) The type of tax(es) involved or an indication that all tax types are within the scope of disclosure;
 - (2) The specific year(s) or period(s) involved; or an indication that the scope is unlimited (not to exceed three years into the future beyond the signature date); and
 - (3) Business tax permit number, or an indication that all tax types are within the scope of authority;
- e. A clear expression of the taxpayer's intention concerning any restrictions to the scope of authority granted to the recognized representative(s) as provided in subrule 5.7(1);
- f. An authorized signature of an individual listed in subrule 5.7(4) meeting the requirements of rule 701—8.2(17A,421);
- g. Any other information required by the department.

5.7(3) Authorization period for a tax information disclosure designation.

a. A tax information disclosure designation may not be used to authorize disclosure for tax periods that end more than three years after the date on which the tax information disclosure designation is signed by the taxpayer. A tax information disclosure designation may concern an unlimited number of tax periods which have ended prior to the date on which the tax information disclosure designation is received by the department; however, tax periods must be stated if the intention is to limit the periods. If the tax periods section is left blank, all tax periods, including those ending up to three years in the future, are included.

b. A tax information disclosure designation continues to be effective for tax periods as defined in paragraph 5.7(3) "a" until revocation by the taxpayer, incapacity of the taxpayer, death of the taxpayer, or withdrawal, death, or incapacity of the tax information disclosure designee.

5.7(4) Individuals who may execute a tax information disclosure designation. The individual(s) who may execute a tax information disclosure designation depends on the type of taxpayer involved as follows:

a. *Individual.* In matters involving an individual taxpayer, a tax information disclosure designation must be signed by the individual.

b. *Joint or combined returns.* In matters involving a joint return or married taxpayers who have elected to file separately on a combined return, each taxpayer must complete and submit the taxpayer's own tax information disclosure designation form. Each spouse may independently authorize disclosure of information from a joint or combined return.

c. *Individuals who have filed a valid representative certification form.* The tax information disclosure designation form must be signed by an individual who has filed a valid representative certification form authorized by the department as described in 701—subrule 7.6(6).

5.7(5) Revocation and withdrawal.**a. Revocation by the taxpayer.**

(1) By written statement. By filing a statement of revocation with the department, a taxpayer may revoke a tax information disclosure designation without authorizing a new representative. The statement of revocation must indicate that the authority of the previous tax information disclosure designation is revoked and must be signed by the taxpayer. Also, the name and address of each representative whose authority is revoked must be listed (or a copy of the tax information disclosure designation must be attached).

(2) Does not automatically revoke. A new tax information disclosure designation for a particular tax type(s) and tax period(s) does not revoke a prior tax information disclosure designation for any tax type(s) and tax period(s), unless the taxpayer has indicated in a written submission to the department that a prior tax information disclosure designation is to be revoked.

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b. Withdrawal by the representative. By filing a statement with the department, a representative may withdraw from representation in a matter in which a tax information disclosure designation has been filed. The statement must be signed by the representative and must identify the name and address of the taxpayer(s) and the matter(s) from which the representative is withdrawing. A representative may withdraw from multiple matters by including with the statement a list of all matters and taxpayers for which withdrawal is desired.

5.7(6) Submitting a form.

a. Submit separately. A tax information disclosure designation form may not be submitted as an attachment to a tax return except as provided by these rules. A tax information disclosure designation must be submitted separately to the department in accordance with the submission instructions on the form. However, the department may, at its discretion, provide a method for authorizing disclosure on the face of a tax return as defined in Iowa Code section 421.6.

b. Original or electronic forms accepted. The department will accept either the original, an electronically scanned and transmitted tax information disclosure designation form or representative certification form, or a copy. A copy received by facsimile transmission (fax) or email will be accepted. All copies, facsimiles and electronically scanned and transmitted forms must include a valid signature meeting the requirements of rule 701—8.2(17A,421) of the taxpayer to be represented.

c. Timely submission. The form must be submitted within six months of the date it is signed, or it will be considered invalid.

d. Evaluation of documentation provided. The department will evaluate the tax information disclosure designation form and any additional documentation to confirm authorization. Authorization to receive, inspect, and discuss confidential state tax information from the department shall only cover those matters and time frames covered by the submitted documentation. The party claiming authorization to receive, inspect, and discuss confidential state tax information from the department on behalf of a taxpayer shall have the burden to prove, to the satisfaction of the department, the existence and extent of the claimed authorization.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

ITEM 2. Rescind and reserve rule **701—5.11(17A,22)**.

ITEM 3. Rescind rule 701—7.6(17A) and adopt the following new rule in lieu thereof:

701—7.6(17A,22,421,422) Authorized representatives—powers of attorney and representative certifications. No individual, including an attorney, accountant, or other representative, will be recognized as representing any taxpayer in regard to any claim, appeal, or other matter before the department or in any communication with, hearing before, or conference with the department, or any member or agent thereof, unless there is first filed with the department a written authorization meeting the requirements of this rule and Iowa Code section 421.59. If a taxpayer wishes to allow the department to discuss otherwise confidential tax matters with an individual other than an authorized representative or power of attorney, without giving that individual authority to act on the taxpayer's behalf, the taxpayer must provide the department with written authorization to disclose such confidential tax information as provided in rule 701—5.7(17A,22,421,422).

7.6(1) Individuals authorized to represent a taxpayer, generally; transfers of decision-making authority.

a. If a taxpayer wishes to have any other individual or individuals act on the taxpayer's behalf in matters before the department, the taxpayer must file with the department an Iowa department of revenue (IDR) power of attorney form, as described in subrule 7.6(5), authorizing that individual to do so. Even if an individual desires to represent a taxpayer only through correspondence with the department but does not intend to personally appear before the department in a hearing or conference, the taxpayer must submit an IDR power of attorney form appointing that individual to act on the taxpayer's behalf.

b. Individuals with the authority to act on behalf of a taxpayer, including pursuant to Iowa Code section 421.59(2) or chapter 633B must file a representative certification form as described in subrule

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7.6(6). See subrule 7.6(6) for more information about individuals who may qualify as authorized representatives and the information required.

7.6(2) Powers authorized.

a. A power of attorney or representative certification form as applicable is required by the department before an individual can perform one or more of the following acts on behalf of the taxpayer:

(1) To receive copies of any notices or documents sent by the department, its representatives, or its attorneys.

(2) To receive, but not to endorse and collect, checks made payable to the taxpayer in payment of any refund of Iowa taxes, penalties, or interest. Certain representatives with a valid representative certification form may be authorized to receive, endorse and collect checks made payable to the taxpayer in payment of any refund of Iowa taxes, penalties, or interest.

(3) To execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.

(4) To execute consents extending the statutory period for assessment or collection of taxes.

(5) To fully represent the taxpayer in any hearing, determination, final or otherwise, or appeal. See subrule 7.6(8) for additional requirements.

(6) To enter into any settlement or compromise with the department.

(7) To execute any release from liability required by the department as a prerequisite to divulging otherwise confidential information concerning the taxpayer.

(8) To authorize a third party as power of attorney or disclosure designee for the taxpayer.

b. The taxpayer may limit the scope of the authority of a power of attorney by expressly stating the limitations, if any, on the IDR power of attorney form submitted to the department. The taxpayer may not expand the scope of authority of a power of attorney beyond those powers authorized in this rule.

7.6(3) Submitting a form.

a. *Submit separately.* An IDR power of attorney form or representative certification may not be submitted as an attachment to a tax return except as provided by these rules. A power of attorney or representative certification form must be submitted separately to the department in accordance with the submission instructions on the form(s).

b. *Original or electronic forms accepted.* The department may accept either the original, an electronically scanned and transmitted IDR power of attorney form or representative certification form, or a copy. A copy received by facsimile transmission (fax) or email may be accepted. All copies, facsimiles, and electronically scanned and transmitted forms must include a valid signature meeting the requirements of rule 701—8.2(17A,421) of the taxpayer to be represented.

c. *Timely submission.* The form must be submitted within six months of the date of signature, or it will be considered invalid.

7.6(4) Communications with represented taxpayers. Any notice or other written communication (or copy thereof) from the department provided to the representative, where required or permitted to be given to the taxpayer in any matter before the department, will be given to the taxpayer.

7.6(5) Powers of attorney. Individuals appointed by a taxpayer to represent the taxpayer must file an IDR power of attorney form.

a. *Individuals who may execute an IDR power of attorney form.* The individual who must execute an IDR power of attorney form is as follows:

(1) Individual. In matters involving an individual taxpayer, an IDR power of attorney form must be signed by the individual.

(2) Joint or combined returns. In matters involving a joint return or married taxpayers who have elected to file separately on a combined return, each taxpayer must complete and submit the taxpayer's own IDR power of attorney form, even if the taxpayers are represented by the same appointee(s). In any matter concerning a joint return or married taxpayers who have elected to file separately on a combined return, in which the two taxpayers are not to be represented by the same representative(s), the recognized representative of such spouse cannot perform any act with respect to a tax matter that the spouse represented cannot perform alone.

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(3) Individuals who have filed a valid representative certification form. The IDR power of attorney form must be signed by an individual who has filed a valid representative certification form authorized by the department as described in subrule 7.6(6).

b. Contents of the IDR power of attorney form. An IDR power of attorney form must contain the following information to be valid:

- (1) Legal name and address of the taxpayer;
- (2) Identification number of the taxpayer (i.e., social security number (SSN), federal identification number (FEIN), or any federal- or Iowa-issued tax identification number);
- (3) Name, mailing address, and preparer's tax identification number (PTIN), FEIN, SSN, individual taxpayer identification number (ITIN), Iowa department of revenue-issued account number (IAN) of the representative, or an indication that an IAN is being requested;
- (4) Description of the matter(s) for which representation is authorized, which may include:
 1. The type of tax(es) involved or an indication that all tax types are within the scope of authority;
 2. The specific year(s) or period(s) involved, or an indication that the scope is unlimited (not to exceed three years into the future beyond the signature date) and Iowa tax permit number, or an indication that all tax types are within the scope of authority;
- (5) A clear expression of the taxpayer's intention concerning any restrictions to the scope of authority granted to the recognized representative(s) as provided in subrule 7.6(2).
- (6) A valid signature meeting the requirements of rule 701—8.2(17A,421) of an individual listed in paragraph 7.6(5)“a.”

(7) Any other information required by the department.

c. Authorization period for an IDR power of attorney form.

(1) An IDR power of attorney form may not be used to authorize representation for tax periods that end more than three years after the date on which the IDR power of attorney form is signed by the taxpayer. The authority granted may concern an unlimited number of tax periods which have ended prior to the date on which the IDR power of attorney form is received by the department; however, tax periods must be stated if the intention is to limit the periods. If the tax period section is left blank, all tax periods, including those ending up to three years in the future, are included.

(2) The authority granted by an IDR power of attorney form ceases to be effective for tax periods as defined in subparagraph 7.6(5)“c”(1) upon revocation by the taxpayer, incapacity of the taxpayer, death of the taxpayer, or withdrawal, death, or incapacity of the individual granted power of attorney authority.

d. Evaluation of documentation provided. The department will evaluate the IDR power of attorney form and any additional documentation to confirm authority. Authority to act before the department shall only cover those matters and time frames covered by the submitted documentation. The party claiming authority to act before the department on behalf of a taxpayer shall have the burden to prove, to the satisfaction of the department, the existence and extent of the claimed authority.

e. Revocation and withdrawal.

(1) Revocation by the taxpayer.

1. By written statement. By filing a statement of revocation with the department, a taxpayer may revoke authority granted by an IDR power of attorney form without authorizing a new representative. The statement of revocation must indicate that the authority of the previous representative is revoked and must be signed by the taxpayer. Also, the name and address of each representative whose authority is revoked must be listed (or a copy of the prior IDR power of attorney form must be attached).

2. By filing a new IDR power of attorney form. Filing a new IDR power of attorney form for a particular tax type(s) and tax period(s) automatically revokes a previously granted power of attorney authority for that tax type(s) and tax period(s). For a previously designated representative to remain as the taxpayer's representative when a subsequent IDR power of attorney form is filed, the taxpayer must include the representative on the newly submitted IDR power of attorney form. This rule applies regardless of whether the power of attorney authority is authorized by an IDR power of attorney form or on a return as described in subrule 7.6(7).

(2) Withdrawal by the representative. By filing a statement with the department, a representative may withdraw from representation in a matter in which an IDR power of attorney form has been filed. The

REVENUE DEPARTMENT[701](cont'd)

statement must be signed by the representative and must identify the name and address of the taxpayer(s) and the matter(s) from which the representative is withdrawing. A representative may withdraw from multiple matters by including with the statement a list of all matters and taxpayers for which withdrawal is desired.

(3) Administrative revocation by the department. The department may administratively revoke a power of attorney or representative certification authority.

7.6(6) Representative certification; durable and general powers of attorney.

a. Individuals with the authority to act on behalf of a taxpayer, including pursuant to Iowa Code section 421.59(2) or chapter 633B, must file with the department a representative certification form prior to utilizing that authority with the department. Individuals authorized by an IDR power of attorney form are not required to file a representative certification form for themselves.

b. *Contents of the representative certification form.* The representative certification form must include the following information:

- (1) Legal name and address of the taxpayer;
- (2) Identification number of the taxpayer (i.e., SSN, FEIN, or any federal- or Iowa-issued tax identification number relative to matters covered by the IDR power of attorney form);
- (3) Name, mailing address, and PTIN, FEIN, or SSN, ITIN, or IAN of the representative. If the identification number is left blank, a new IAN will be assigned to the representative;
- (4) Proof of authority must be included with the form as follows:
 1. Durable power of attorney or general power of attorney other than an IDR power of attorney form: a copy of the power of attorney document;
 2. Guardian, conservator, or custodian appointed by a court: documentation as required in Iowa Code section 421.59(2)“a”;
 3. Receiver appointed pursuant to Iowa Code chapter 680: a copy of the relevant court order(s);
 4. Individual holding one of the following titles within a corporation, association, partnership, or other entity:
 - President/CEO of corporation/association: in the case of a president or CEO, affirmation of authority to act on behalf of the corporation or association on the form designated by the department;
 - Any officer of a corporation/association other than a president or CEO: authorization from the president or CEO;
 - Designated partner authorized to act on behalf of a partnership: affirmation of authority to act on behalf of the partnership on the form designated by the department;
 - Individual authorized to act on behalf of a limited liability company in tax matters: affirmation of authority to act on behalf of the limited liability company on the form designated by the department;
 5. Licensed attorney appearing on behalf of the taxpayer or the taxpayer’s estate in a court proceeding: a copy of the filed notice of appearance in the relevant court proceeding;
 6. Parent or guardian of minor taxpayer for whom the parent or guardian has signed the minor’s tax return: a copy of the return signed by the parent or guardian;
 7. Governmental representative: affirmation of authority to act on behalf of the government entity on the form designated by the department;
 8. Executor or personal representative: a copy of the will or court order appointing the individual;
- (5) A valid signature meeting the requirements of rule 701—8.2(17A,421) of the representative;
- (6) Any other information required by the department.

c. *Evaluation of documentation provided.* The department will evaluate documentation submitted in support of a representative certification to confirm authority. Authority to act before the department shall only cover those matters and time frames covered by the submitted documentation. The party claiming authority to act before the department on behalf of a taxpayer shall have the burden to prove, to the satisfaction of the department, the existence and extent of the claimed authority.

d. *Revocation.* A representative certification may be revoked in the following ways:

- (1) By the representative being withdrawn, following procedures in subparagraph 7.6(5)“e”(2).
- (2) By the taxpayer, following procedures in subparagraph 7.6(5)“e”(1).

REVENUE DEPARTMENT[701](cont'd)

(3) By another representative. A representative properly appointed by a representative certification or an IDR power of attorney form may notify the department that a representative no longer has authority to act on behalf of the taxpayer by filing a statement of revocation with the department. The notification statement must indicate that the authority of the former representative has ceased and must be signed by a current authorized representative. Also, the name and address of each representative who no longer has authority must be listed (or a copy of the prior representative certification form must be attached).

(4) Administrative revocation by the department, following procedures in paragraph 7.6(5) "e."

7.6(7) *Returns that may be used to grant power of attorney authority.* An IDR power of attorney form is not needed for individuals who have been named as an authorized representative on a fiduciary return of income filed under Iowa Code section 422.14 or a tax return filed under Iowa Code chapter 450.

7.6(8) *Individuals authorized to represent themselves or others in a contested case proceeding.* The right to represent oneself or others in connection with any contested case proceeding before the department or administrative hearings division shall be limited to the following classes of individuals, so long as such representation is not barred by another provision of law. Representatives must have a valid IDR power of attorney form or valid representative certification form on file with the department to represent others in a contested case proceeding. The right to represent a taxpayer before the department or the administrative hearings division does not confer the right to represent the taxpayer in a judicial proceeding.

a. Taxpayers who are natural persons representing themselves. One spouse may not represent the other in contested case proceedings, unless the spouse is acting in a capacity described in paragraphs 7.6(8) "b" to "j";

b. Attorneys duly qualified and entitled to practice in the courts of the state of Iowa;

c. Attorneys who are entitled to practice before the highest court of record of any other state and who have complied with the requirements for admission to practice before the courts of the state of Iowa pro hac vice;

d. Accountants who are authorized, permitted, or licensed under Iowa Code chapter 542;

e. Duly authorized directors or officers of corporations representing the corporation of which they are respectively a director or officer. Attorneys who are acting in the capacity of a director or officer of a corporation must meet the requirements of paragraph 7.6(8) "b" or "c";

f. Partners representing their partnership. Attorneys who are acting in the capacity of a partner must meet the requirements of paragraph 7.6(8) "b" or "c";

g. Fiduciaries. Fiduciaries include trustees, receivers, guardians, personal representatives, administrators, and executors. For purposes of this rule, a fiduciary is considered to be the taxpayer and not a representative of the taxpayer;

h. Government officials authorized by law;

i. Enrolled agents, currently enrolled under 31 CFR §10.6 for practice before the Internal Revenue Service, representing a taxpayer in proceedings under division II of Iowa Code chapter 422; and

j. Conservators, guardians, or durable powers of attorney appointed to handle tax matters.

ITEM 4. Rescind and reserve rule **701—7.34(421)**.

ARC 5399C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to broadband infrastructure grant exemption and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 40, "Determination of Net Income," Chapter 53, "Determination of Net Income," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

REVENUE DEPARTMENT[701](cont'd)

Legal Authority for Rule Making

This rule making is proposed 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 sections 422.7, 422.35 and 422.61.

Purpose and Summary

This proposed rule making is intended to implement new income tax exemptions created by 2020 Iowa Acts, House File 2641, for certain broadband grants provided to qualified service providers by providing definitions necessary to implement those exemptions.

Fiscal Impact

These amendments have no fiscal impact beyond that of the legislation they are 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 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 16, 2021. Comments should be directed to:

Benjamin Clough
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.587.0662
Email: ben.clough@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

REVENUE DEPARTMENT[701](cont'd)

ITEM 1. Adopt the following **new** rule 701—40.84(422):

701—40.84(422) Broadband infrastructure grant exemption.

40.84(1) *Broadband infrastructure grant exemption, generally.* For tax years beginning on or after January 1, 2019, certain qualifying communications service providers may subtract, to the extent included in income, the amount of qualifying government grants used to install broadband infrastructure that facilitates broadband service in targeted service areas at or above download and upload speeds identified by the Federal Communications Commission pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended. This rule explains terms not defined in Iowa Code section 422.7.

40.84(2) *Definitions.*

“*Facilitate*” shall have the same meaning as defined in Iowa Code section 8B.1.

“*Grant*” means a transfer for a governmental purpose of money or property to a transferee that is not a related party to or an agent of the transferor. The transfer must not impose any obligation or condition to directly or indirectly repay any amount to the transferor or a related party. Obligations or conditions intended solely to assure expenditure of the transferred moneys in accordance with the governmental purpose of the transfer do not prevent a transfer from being a grant.

1. “Federal grant” means any grant issued by the United States government, including any agency or instrumentality thereof.

2. “State grant” means any grant issued by any state of the United States, the District of Columbia, or a territory or possession of the United States, including any agency or instrumentality thereof.

3. “Local grant” means any grant issued by any city, county, township, school district, or any other unit of local government, including any agency or instrumentality thereof.

40.84(3) *Limitation on certain refund claims.* For tax years beginning on or after January 1, 2019, and before January 1, 2020, refund claims resulting from this exemption must be filed prior to October 1, 2020. No refunds shall be issued for claims filed on or after that date.

This rule is intended to implement Iowa Code section 422.7 as amended by 2020 Iowa Acts, House File 2641.

ITEM 2. Adopt the following **new** rule 701—53.28(422):

701—53.28(422) Broadband infrastructure grant exemption.

53.28(1) *Broadband infrastructure grant exemption, generally.* For tax years beginning on or after January 1, 2019, certain qualifying communications service providers may subtract, to the extent included in income, the amount of qualifying government grants used to install broadband infrastructure that facilitates broadband service in targeted service areas at or above download and upload speeds identified by the Federal Communications Commission pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended. This rule explains terms not defined in Iowa Code section 422.35.

53.28(2) *Definitions.*

“*Facilitate*” shall have the same meaning as defined in Iowa Code section 8B.1.

“*Grant*” means a transfer for a governmental purpose of money or property to a transferee that is not a related party to or an agent of the transferor. The transfer must not impose any obligation or condition to directly or indirectly repay any amount to the transferor or a related party. Obligations or conditions intended solely to assure expenditure of the transferred moneys in accordance with the governmental purpose of the transfer do not prevent a transfer from being a grant.

1. “Federal grant” means any grant issued by the United States government, including any agency or instrumentality thereof.

2. “State grant” means any grant issued by any state of the United States, the District of Columbia, or a territory or possession of the United States, including any agency or instrumentality thereof.

REVENUE DEPARTMENT[701](cont'd)

3. “Local grant” means any grant issued by any city, county, township, school district, or any other unit of local government, including any agency or instrumentality thereof.

53.28(3) Limitation on certain refund claims. For tax years beginning on or after January 1, 2019, and before January 1, 2020, refund claims resulting from this exemption must be filed prior to October 1, 2020. No refunds shall be issued for claims filed on or after that date.

This rule is intended to implement Iowa Code section 422.35 as amended by 2020 Iowa Acts, House File 2641.

ITEM 3. Adopt the following **new** rule 701—59.30(422):

701—59.30(422) Broadband infrastructure grant exemption.

59.30(1) Broadband infrastructure grant exemption, generally. For tax years beginning on or after January 1, 2019, certain qualifying communications service providers may subtract, to the extent included in income, the amount of qualifying government grants used to install broadband infrastructure that facilitates broadband service in targeted service areas at or above download and upload speeds identified by the Federal Communications Commission pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended. This rule explains terms not defined in Iowa Code section 422.35.

59.30(2) Definitions.

“Facilitate” shall have the same meaning as defined in Iowa Code section 8B.1.

“Grant” means a transfer for a governmental purpose of money or property to a transferee that is not a related party to or an agent of the transferor. The transfer must not impose any obligation or condition to directly or indirectly repay any amount to the transferor or a related party. Obligations or conditions intended solely to assure expenditure of the transferred moneys in accordance with the governmental purpose of the transfer do not prevent a transfer from being a grant.

1. “Federal grant” means any grant issued by the United States government, including any agency or instrumentality thereof.

2. “State grant” means any grant issued by any state of the United States, the District of Columbia, or a territory or possession of the United States, including any agency or instrumentality thereof.

3. “Local grant” means any grant issued by any city, county, township, school district, or any other unit of local government, including any agency or instrumentality thereof.

59.30(3) Limitation on certain refund claims. For tax years beginning on or after January 1, 2019, and before January 1, 2020, refund claims resulting from this exemption must be filed prior to October 1, 2020. No refunds shall be issued for claims filed on or after that date.

This rule is intended to implement Iowa Code section 422.35 as amended by 2020 Iowa Acts, House File 2641.

ARC 5401C

SCHOOL BUDGET REVIEW COMMITTEE[289]

Notice of Intended Action

**Proposing rule making related to applying for aid
and providing an opportunity for public comment**

The School Budget Review Committee (SBRC) hereby proposes to amend Chapter 6, “Duties and Operational Procedures,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 257.30.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2418.

SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

Purpose and Summary

The proposed amendment allows the SBRC the option to grant the modified supplemental amount when a school district submits a request after the January 15 deadline stipulated in Iowa Code section 257.40(1), but before March 1 of the budget year preceding the budget year during which the program will be offered.

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 SBRC for a waiver of the discretionary provisions, pursuant to 289—Chapter 8.

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 SBRC no later than 4:30 p.m. on February 16, 2021. Comments should be directed to:

Tom Cooley
School Budget Review Committee
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.725.1120
Email: tom.cooley@iowa.gov

Public Hearing

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

February 16, 2021
8 to 8:30 a.m.

Via video participation:
[IDOE.zoom.us/j/98731571298?pwd=VnNoT2dUOHVBVHdJSTg1MGFHV3I5QT09](https://doe.zoom.us/j/98731571298?pwd=VnNoT2dUOHVBVHdJSTg1MGFHV3I5QT09)

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 Committee and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

Amend paragraph **6.3(3)“k”** as follows:

k. Applications described in ~~paragraphs~~ paragraph 6.3(3) “g” and “i” that are not timely filed will not be considered for supplemental aid or for modified supplemental amount. Applications described in paragraphs 6.3(3) “h” and “j” that are not timely filed may be considered at the sole discretion of the SBRC. Applications described in paragraph 6.3(3) “i” that are submitted after January 15 but before March 1 of the budget year preceding the budget year during which the program will be offered may be considered at the sole discretion of the SBRC; applications received after March 1 shall not be considered by the SBRC for any reason.

ARC 5397C

SECRETARY OF STATE[721]

Notice of Intended Action

**Proposing rule making related to petitions for rule making and waivers
and providing an opportunity for public comment**

The Secretary of State hereby proposes to amend Chapter 8, “Petitions for Rule Making,” and Chapter 10, “Waiver and Variance Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2389.

Purpose and Summary

The proposed amendments update two chapters of the Department’s rules in accordance with changes made by 2020 Iowa Acts, House File 2389, sections 7 and 10. The changes call for deletions of the word “variance” when the word is used in relation to “waiver.” The changes also call for sharing the disposition of rule-making petitions with the Administrative Rules Review Committee.

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 Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

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 Secretary of State no later than 4:30 p.m. on February 16, 2021. Comments should be directed to:

SECRETARY OF STATE[721](cont'd)

Molly Widen
 Office of the Iowa Secretary of State
 Lucas State Office Building, First Floor
 321 East 12th Street
 Des Moines, Iowa 50319
 Phone: 515.281.5864
 Email: mollywiden@sos.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 8.4(1) as follows:

8.4(1) Within 30 days after the filing of a petition, the agency must submit ~~a copy of the petition and any accompanying brief~~ the petition, any accompanying brief, and the disposition of the petition to the administrative rules coordinator and to the administrative rules review committee. Upon request by petitioner in the petition, the agency must schedule a brief and informal meeting between the petitioner and the agency, a member of the agency, or a member of the staff of the agency, to discuss the petition. The agency may request the petitioner to submit additional information or argument concerning the petition. The agency may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the agency by any person.

ITEM 2. Amend **721—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 17A.7 ~~as amended by 1998 Iowa Acts, chapter 1202.~~

ITEM 3. Amend **721—Chapter 10**, title, as follows:

WAIVER AND VARIANCE RULES

ITEM 4. Amend rule 721—10.1(17A) as follows:

721—10.1(17A) Definition. For purposes of this chapter, a “~~waiver or variance~~” means action by the agency which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~

ITEM 5. Amend rule 721—10.4(17A) as follows:

721—10.4(17A) Criteria for ~~waiver or variance~~. In response to a petition completed pursuant to rule 721—10.6(17A), the agency may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the agency finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;

SECRETARY OF STATE[721](cont'd)

- 2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
- 3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and
- 4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

ITEM 6. Rescind rule **721—10.12(17A)**.

ITEM 7. Renumber rules **721—10.13(17A)** to **721—10.16(17A)** as **721—10.12(17A)** to **721—10.15(17A)**.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for January is 2.75%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective January 12, 2021, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .05%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

TREASURER OF STATE(cont'd)

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

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

February 1, 2020 — February 29, 2020	3.50%
March 1, 2020 — March 31, 2020	3.75%
April 1, 2020 — April 30, 2020	3.50%
May 1, 2020 — May 31, 2020	2.75%
June 1, 2020 — June 30, 2020	2.75%
July 1, 2020 — July 31, 2020	2.75%
August 1, 2020 — August 31, 2020	2.75%
September 1, 2020 — September 30, 2020	2.50%
October 1, 2020 — October 31, 2020	2.75%
November 1, 2020 — November 30, 2020	2.75%
December 1, 2020 — December 31, 2020	2.75%
January 1, 2021 — January 31, 2021	2.75%
February 1, 2021 — February 28, 2021	3.00%

ARC 5403C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to hazardous liquid pipelines and underground storage and providing an opportunity for public comment

The Utilities Board hereby proposes to amend Chapter 13, “Hazardous Liquid Pipelines and Underground Storage,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 479B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 479B.

Purpose and Summary

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). Based upon a review of stakeholder comments and the Board’s review of various dockets, the Board has concluded that the best course for addressing the rules for hazardous liquid pipelines and underground storage is for the Board to amend the current rules in Chapter 13.

On January 15, 2021, the Board issued an order commencing rule making. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2020-0013.

UTILITIES DIVISION[199](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

No waiver provision is included in the proposed amendment 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 this chapter.

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 16, 2021. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

An oral presentation at which persons may present their views orally or in writing will be held as follows:

April 15, 2021
1:30 to 4:30 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

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

Persons who do not wish to attend in person may attend via webinar. Information about attending the oral presentation via webinar will be provided on the Board website, iub.iowa.gov, on the Hearing and Meeting Calendar webpage.

Persons who intend to attend the oral presentation 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 subrule 13.1(1) as follows:

13.1(1) ~~Authority~~ *Purpose and authority.* The purpose of this chapter is to implement the requirements of Iowa Code chapter 479B to establish procedures and filing requirements for a permit to construct, maintain, and operate an intrastate or interstate hazardous liquid pipeline, for an amendment to an existing permit, and for renewal of an existing permit. This chapter also implements the

UTILITIES DIVISION[199](cont'd)

requirements of Iowa Code chapter 479B for permits for underground storage of hazardous liquids. The ~~standards rules~~ in this chapter relating to hazardous liquid pipelines and underground storage of hazardous liquids are ~~prescribed~~ adopted by the Iowa utilities board pursuant to Iowa Code section ~~479B.1~~ chapter 479B.

ITEM 2. Rescind subrule 13.1(2) and adopt the following new subrule in lieu thereof:

13.1(2) *When a permit is required.* A hazardous liquid pipeline permit shall be required for any hazardous liquid pipeline to be constructed in Iowa, regardless of length or operating pressure of the pipeline.

ITEM 3. Amend subrule 13.1(3) as follows:

13.1(3) *Definitions.* Words and terms not otherwise defined in this chapter shall be understood to have their usual meaning. For the administration and interpretation of this chapter, the following words and terms, ~~when used in these rules,~~ shall have the following meanings indicated below:

"Affected person" means any person with a legal right or interest in the property, including but not limited to a landowner, contract purchaser of record, a person possessing the property under a lease, a record lienholder, and a record encumbrancer of the property.

"Amendment of permit" means changes to the pipeline permit or pipeline that require the filing of a petition to amend an existing pipeline permit as described in rule 199—13.9(479B).

"Approximate right angle" means within 5 degrees of a ~~90-degree~~ 90-degree angle.

"Board" means the utilities board within the utilities division of the department of commerce.

"County inspector" means a professional engineer licensed under Iowa Code chapter 542B, familiar with agricultural and environmental inspection requirements, who has been employed by a county board of supervisors to do an on-site inspection of a proposed pipeline for compliance with 199—Chapter 9 and Iowa Code chapter 479B.

"Hazardous liquid" means crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.

"Multiple line crossing" means a point at which a proposed pipeline will either cross over or under an existing pipeline.

"Negotiating" means contact between a pipeline company and a person with authority to negotiate an easement or other interest in land that involves the location, damages, compensation, or other matter that is restricted by Iowa Code section 479B.4(6). Contact for purposes of obtaining addresses and other contact information from a landowner or tenant is not considered negotiation.

"Permit" means a new, amended, or extended renewal permit issued ~~after appropriate application to and determination~~ by the board.

"Person" means an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

"Pipeline" means any pipe or pipeline and necessary appurtenances used for the transportation or transmission of any hazardous liquid.

"Pipeline company" means any person, ~~firm, copartnership, association, corporation, or syndicate~~ engaged in or organized for the purpose of owning, operating, or controlling pipelines for the transportation or transmission of any hazardous liquid or underground storage facilities for the underground storage of any hazardous liquid.

"Renewal permit" means ~~the extension and reissuance of a permit after appropriate application to and determination by the board.~~

"Underground storage" means storage of hazardous liquid in a subsurface stratum or formation of the earth.

ITEM 4. Rescind subrule **13.1(4)**.

ITEM 5. Rescind rule 199—13.2(479B) and adopt the following new rule in lieu thereof:

199—13.2(479B) Informational meetings. Informational meetings shall be held for any proposed pipeline project five miles or more in length, including both the current project and future anticipated

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extensions, and which is to be operated at a pressure in excess of 150 pounds per square inch. A separate informational meeting shall be held in each county in which real property or property rights would be affected.

13.2(1) *Time frame for holding meeting.* Informational meetings shall be held not less than 30 days nor more than two years prior to the filing of the petition for pipeline permit.

13.2(2) *Facilities.* A pipeline company shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in substantial compliance with any applicable requirements of the Americans with Disabilities Act Standards for Accessible Design, including both Title II regulations at 28 CFR part 36, subpart D, and the 2004 Americans with Disabilities Act Accessibility Guidelines at 36 CFR part 1191, appendices B and D (as amended through [the effective date of these amendments]), where such a building or facility is reasonably available.

13.2(3) *Location.* The informational meeting location shall be reasonably accessible to all persons who may be affected by the granting of a permit or who have an interest in the proposed pipeline.

13.2(4) *Board approval.* A pipeline company proposing to schedule an informational meeting shall file a request to schedule the informational meeting and shall include a proposed date and time for the informational meeting, an alternate time and date, and a description of the proposed project and map of the route. The pipeline company shall be notified within ten days of the filing of the request whether the request is approved or alternate times and dates are required. Once a date and time for the informational meeting have been approved, the pipeline company shall file the location of the informational meeting and a copy of the pipeline company's presentation with the board. The pipeline company shall file a copy of its presentation with the board 14 days prior to the date the informational meeting is to be held.

13.2(5) *Notices.* Announcement by mailed and published notice of each informational meeting shall be given to persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and those persons in possession of or residing on the property in the corridor in which the pipeline company intends to seek easements.

- a.* The notice shall include the following:
- (1) The name of the pipeline company;
 - (2) The pipeline company's principal place of business;
 - (3) The general description and purpose of the proposed project;
 - (4) The general nature of the right-of-way desired;
 - (5) The possibility that the right-of-way may be acquired by condemnation if approved by the board;
 - (6) A map showing the route of the proposed project;
 - (7) A description of the process used by the board in making a decision on whether to approve a permit, including the right to take property by eminent domain;
 - (8) A statement that an affected landowner and any other affected person with a legal interest in the property, or residing on the property, has the right to be present at the informational meeting and to file objections with the board;
 - (9) The following statement: "Persons with disabilities requiring assistive services or devices to observe or participate should contact the board at (515) 725-7300 in advance of the scheduled date to request accommodations";
 - (10) Designation of the date, time, and place of the meeting; and
 - (11) A copy of the statement of damage claims as required by paragraph 13.3(3) "b."

b. The pipeline company shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and persons in possession of or residing on the property, whose addresses are known. The certified meeting notice shall be deposited in the United States mail not less than 30 days prior to the date of the meeting.

c. The pipeline company shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in each county where the pipeline is proposed to be located at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered

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as notice to affected persons listed on the tax assessment rolls as responsible for paying the real estate taxes imposed on the property and persons in possession of or residing on the property whose addresses are not known, provided a good faith effort to obtain the address can be demonstrated by the pipeline company. The map used in the published notice shall clearly delineate the pipeline route.

d. The pipeline company shall file an affidavit that describes the good faith effort the pipeline company undertook to locate the addresses of all affected persons. The affidavit shall be signed by an attorney representing the pipeline company.

13.2(6) *Personnel.* The pipeline company shall provide qualified personnel to present the following information at the informational meeting:

- a.* Service requirements and planning which have resulted in the proposed project.
- b.* When the pipeline will be constructed.
- c.* In general terms, the elements involved in pipeline construction.
- d.* In general terms, the rights which the pipeline company will seek to acquire through easements.
- e.* Procedures to be followed in contacting the affected persons for specific negotiations in acquiring voluntary easements.
- f.* Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount for each component.
- g.* Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees, and time of payment.
- h.* Other factors or damages not included in the easement for which compensation is made, including features of interest to affected persons but not limited to computation of amounts and manner of payment.

13.2(7) *Notice to county board of supervisors.* The pipeline company shall send notice of the request for an informational meeting to the county board of supervisors in each county where the proposed pipeline is to be located. The pipeline company shall request from the board of supervisors the name of the county inspector, a professional engineer who shall conduct the on-site inspection required by Iowa Code section 479B.20(2). The pipeline company shall provide the name and contact information of the county inspector to the board, landowners, and other affected persons at the meeting, if known.

ITEM 6. Rescind rule 199—13.3(479B) and adopt the following **new** rule in lieu thereof:

199—13.3(479B) Petition for permit.

13.3(1) A petition for a permit shall be filed with the board upon the form prescribed and shall include all required exhibits. The petition shall be considered filed with the board on the date accepted by the board's electronic filing system as provided for in 199—Chapter 14. The petition shall be attested to by an officer, official, or attorney with authority to represent the pipeline company. Required exhibits shall be in the following form:

- a. Exhibit A.* A legal description showing, at minimum:
 - (1) The beginning and ending points of the proposed pipeline.
 - (2) The general direction of the proposed route through each quarter section of land to be crossed, including township and range.
 - (3) Whether the proposed pipeline will be located on private or public property, public highway, or railroad right-of-way.
 - (4) Other pertinent information.
 - (5) When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name.
- b. Exhibit B.* Maps showing the proposed routing of the pipeline. The maps may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile, and shall be legible when printed on paper no larger than 11 by 17 inches. Maps based on satellite imagery are preferred. An additional map of the entire route, if the route is located in more than one county or there is more than one map for a county, shall be filed in this exhibit on paper no larger than 11 by 17 inches without regard to scale. The pipeline company shall also provide the board with a KMZ file showing the proposed route of the pipeline. Data files necessary to provide mapping of the route through the use

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of a geographic information system application shall be provided upon the request of the board. The following minimum information shall be provided on the maps:

(1) The route of the pipeline which is the subject of the petition, including the starting and ending points, and when paralleling a road or railroad, which side the pipeline is on. Multiple pipelines on the same right-of-way shall be indicated, and the distance between paralleling pipelines shall be shown.

(2) The name of the county, county lines, section lines, section numbers, township numbers, and range numbers.

(3) The location and identity of adjacent or crossed public roads, railroads, named streams or bodies of water, and other pertinent natural or man-made features influencing the route.

(4) The name and corporate limits of cities and the name and boundaries of any public lands or parks.

(5) Other pipelines and the identity of the owner.

(6) Any buildings or places of public assembly within the potential impact radius of the pipeline, as defined in 49 CFR 192.903.

c. Exhibit C. A showing of engineering specifications covering the engineering features, materials and manner of construction of the proposed pipeline; its approximate length, diameter and the name and location of each railroad and primary highway and the number of secondary highways to be crossed, if any; and such other information as may be deemed pertinent on forms prescribed by the board, which are located on the board's website. In addition, the maximum and normal operating pressure and maximum capacity of the proposed pipeline shall be provided.

d. Exhibit D. Satisfactory proof of solvency and financial ability to pay damages in the sum of \$250,000 or more; or surety bond satisfactory to the board in the penal sum of \$250,000 with surety approved by the board, conditioned that the pipeline company will pay any and all damages legally recovered against the pipeline company growing out of the construction and operation of its pipeline or hazardous liquid storage facilities in the state of Iowa; security satisfactory to the board as a guarantee for the payment of damages in the sum of \$250,000; or satisfactory proofs that the company has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000. The board may require additional surety or insurance policies to ensure the payment of damages resulting from the construction and operation of a hazardous liquid pipeline in a county.

e. Exhibit E.

(1) Consent or documentation of appropriate public highway authorities, or railroad companies, where the pipeline will be placed longitudinally on, over or under, or at other than an approximate right angle to railroad tracks or highway, when consent is obtained prior to filing of the petition, shall be filed with the petition.

(2) If any consent is not obtained at the time the petition is filed, the pipeline company shall file a statement that it will obtain all necessary consents or file other documentation of the right to commence construction prior to commencement of construction of the pipeline. A pipeline company may request board approval to begin construction on a segment of a pipeline prior to obtaining all necessary consents for construction of the entire pipeline.

(3) Whether there are permits that will be required from other state agencies for construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained shall be included.

(4) Whether there are permits from federal agencies that will be required for construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained shall be included.

f. Exhibit F. This exhibit shall contain the following information:

(1) A statement of the purpose of the project and a description of how the services rendered by the pipeline will promote the public convenience and necessity.

(2) A general statement covering each of the following topics:

1. The nature of the lands, waters, and public or private facilities to be crossed;
2. The possible use of alternative routes;

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3. The relationship of the proposed pipeline to present and future land use and zoning ordinances; and

4. The inconvenience or undue injury which may result to property owners as a result of the proposed project.

(3) For an existing pipeline, the year of original construction and a description of any amendments or reportable changes since the permit or latest renewal permit was issued.

g. Exhibit G. If informational meetings were required, an affidavit that the meetings were held in each county affected by the proposed project and the time and place of each meeting. Copies of the mailed notice letter, the corridor map, and the published notice(s) of the informational meeting shall be attached to the affidavit.

h. Exhibit H. This exhibit is required only if the petition requests the right of eminent domain. The extent of the eminent domain request may be uncertain at the time the petition is filed. However, the exhibit must be in final form before a hearing is scheduled. The exhibit shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought and the following information for each property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of all affected persons based upon a title search conducted for the property over which eminent domain is requested.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of pipelines or pipeline facilities within the proposed easement, the location of and distance to any building within 300 feet of the proposed pipeline, and any other features pertinent to the location of the pipeline to the rights being sought.

(6) An overview map showing the location of the property over which eminent domain is requested, with the property identified as required by 199—Chapter 9.

(7) An updated KMZ file required by paragraph 13.3(1) “b” to show the locations of the property over which the pipeline company is seeking eminent domain.

i. Exhibit I. If pipeline construction on agricultural land as defined in 199—subrule 9.1(3) is proposed, a land restoration plan shall be prepared and filed as provided for in rule 199—9.2(479,479B). The name and contact information of each county inspector designated by county boards of supervisors pursuant to Iowa Code section 479B.20(2) shall be included in the land restoration plan, when known.

j. Underground storage. If permission is sought to construct, maintain, and operate facilities for underground storage of hazardous liquid, the petition shall include the following information, in addition to that stated above:

(1) A description of the public or private highways, grounds and waters, streams, and private lands of any kind under which the storage is proposed, together with a map.

(2) Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the facilities.

k. Exhibit K. The pipeline company shall file additional information as follows:

(1) An affidavit affirming that the company has undertaken a review of land records to determine all affected persons in the property for all parcels over which the pipeline is proposed to be located before easements were signed or eminent domain requested.

(2) Whether any private easements will be required for the proposed pipeline and, if a private easement will be required, when the easement negotiations will be completed and whether all affected persons associated with the property have been notified.

(3) Whether there are permits that will be required from other state agencies for the construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained.

(4) Whether there are permits from federal agencies that will be required for construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained.

(5) Whether there are any agreements or additional facilities that need to be constructed to transport or receive hazardous liquids.

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(6) Projected date when construction of the pipeline will begin.

l. Exhibit L. Other exhibits. The board may require filing of additional exhibits if further information on a particular project is deemed necessary.

13.3(2) Construction on an existing easement.

a. Petitions proposing new pipeline construction on an existing easement where the pipeline company has previously constructed a pipeline shall include a statement indicating whether any unresolved damage claims remain from the previous pipeline construction and, if so, shall include the name of each landowner or tenant, a legal description of the property involved, and the status of proceedings to settle the claim.

b. A petition for permit proposing a new pipeline construction on an existing easement where the pipeline company has previously constructed a pipeline shall not be acted upon by the board if a damage claim from the installation of the previous pipeline has not been resolved by negotiation, arbitration, or court action. The board may take action on the petition if the damage claim is under litigation or arbitration.

13.3(3) Statement of damage claims.

a. A petition for permit proposing new pipeline construction shall not be acted upon by the board if the pipeline company does not file with the board a written statement in compliance with Iowa Code chapter 479B as to how damages resulting from the construction of the pipeline shall be determined and paid.

b. The statement shall contain the following information: the type of damages which will be compensated, how the amount of damages will be determined, the procedures by which disputes may be resolved, the manner of payment, and the procedures that the affected person is required to follow to obtain a determination of damages by a county compensation commission.

c. The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

d. A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 479B.4. If no informational meeting is required, a copy shall be provided to each affected person prior to entering into negotiations for payment of damages.

e. Nothing in this rule shall prevent a person from negotiating with the pipeline company for terms which are different, more specific, or in addition to the statement filed with the board.

13.3(4) Negotiation of easements. The pipeline company is not prohibited from responding to inquiries concerning existing or future easements or from requesting and collecting tenant and affected person information, provided that the pipeline company is not “negotiating” as defined at subrule 13.1(3).

ITEM 7. Amend rule 199—13.4(479B) as follows:

199—13.4(479B) Notice of hearing.

13.4(1) When a proper petition for permit is received by filed with the board, it shall be docketed for hearing and the petitioner shall be advised of the time and place of hearing, except as provided for in rule 13.8(479B). Petitioner shall also be furnished copies of the official notice of hearing which petitioner shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 nor more than 30 days prior to the date of the hearing. Proof of publication shall be filed prior to or at the hearing the petition shall be reviewed by board staff for compliance with applicable laws. Once board staff has completed the review and filed a report regarding the proposed pipeline and petition, the petition shall be set for hearing. This subrule does not apply to renewal petitions filed pursuant to rule 199—13.8(479B) which do not require a hearing.

13.4(2) The pipeline company shall be furnished copies of the official notice of hearing, which the pipeline company shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 and no more than 30 days prior to the date of the hearing. Proof of publication shall be filed prior to the hearing.

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13.4(3) The published notice shall include a map showing either the pipeline route or the area affected by underground ~~gas~~ hazardous liquid storage, or a telephone number and an address through which interested persons ~~can~~ may obtain a copy of a map from ~~petitioner~~ the pipeline company at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy shall be filed with the petition.

~~13.4(2)~~ **13.4(4)** If a petition for permit seeks the right of eminent domain, ~~petitioner~~ the pipeline company shall, in addition to the published notice of hearing, serve a copy of the notice of hearing ~~to~~ on the owners and parties in possession of lands landowners and any affected person with an interest in the property over which eminent domain is sought. A copy of the Exhibit H filed with the board for the affected property shall accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to ~~their~~ the person's last-known address; and this notice shall be mailed ~~not~~ no later than the first day of publication of the official notice of hearing on the petition. Not less than five days prior to the date of the hearing, the ~~petitioner~~ pipeline company shall file with the board a certificate of service showing all persons and addresses to which notice was sent by certified mail, ~~and~~ the date of the mailing, and an affidavit that all affected persons were served.

~~13.4(3)~~ **13.4(5)** If a petition does not seek the right of eminent domain, but all required interests in private property have not yet been obtained at the time the petition is filed, a copy of the notice of hearing shall be served upon ~~the owners and parties in possession of those lands~~ any affected person with interests in the property. Service shall be by ordinary mail, addressed to the last-known address, ~~and~~ mailed not no later than the first day of publication of the official notice. A copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all ~~parties~~ persons to ~~which it~~ whom the notice was mailed, ~~and~~ the date of mailing, ~~and an affidavit that all affected persons were served~~, shall be filed with the board not less than five days prior to the hearing.

ITEM 8. Amend rule 199—13.5(479B) as follows:

199—13.5(479B) Objections. ~~A~~ Any person, including a governmental entity, whose rights or interests may be affected by ~~the object of a petition~~ a proposed pipeline or underground storage facility may file a written objection with the board. ~~The written objection~~ Written objections shall be filed with the secretary of the board not less than five days prior to date of hearing. The board may, for good cause shown, permit filing of objections less than five days prior to hearing, but in such event ~~petitioner~~ the pipeline company shall be granted a reasonable time to ~~meet objections~~ respond to a late-filed objection.

ITEM 9. Amend rule 199—13.6(479B) as follows:

199—13.6(479B) Hearing. ~~Hearing shall be~~ A petition for a pipeline permit, or amendment to a pipeline permit, shall be scheduled for hearing not less than 10 or nor more than 30 days from the date of last publication of the notice of hearing.

~~Petitioner shall be represented by one or more duly authorized representatives or counsel or both. The board may examine the proposed route of the pipeline or location of the underground storage facilities which are the object of the petition or may cause examination to be made on its behalf by an engineer of its selection. One or more members of the board or a duly appointed administrative law judge shall consider the petition and any objections filed thereto and may hear testimony deemed appropriate. One or more petitions may be considered at the same hearing. Petitions may be consolidated. Hearing shall be held in the office of the board or at any other place within the state of Iowa as the board may designate. Any hearing permitted by these rules in which there are no objections, interventions or material issues in dispute may be conducted by telephonic means. Notice of the telephonic hearings shall be given to parties within a reasonable time prior to the date of hearing.~~

13.6(1) Representation of a pipeline company at a pipeline permit hearing shall comply with the requirements of 199—subrule 7.4(8).

13.6(2) The board or presiding officer may schedule a prehearing conference to consider a procedural schedule for the petition and a hearing date.

13.6(3) One or more petitions may be consolidated for hearing.

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13.6(4) Hearings shall be scheduled and held in the office of the board or at any other place within the state of Iowa as the board may designate pursuant to Iowa Code section 479B.6. Requests for conducting a hearing or taking testimony by telephone or electronic means may be approved by the board or presiding officer.

13.6(5) The hearing requirements in this rule also apply to petitions for hazardous liquid underground storage permits and amendments to hazardous liquid underground storage permits.

ITEM 10. Amend rule 199—13.7(479B) as follows:

~~199—13.7(479B) Pipeline permit. If after hearing and appropriate findings of fact it is determined a permit should be granted, a permit shall be issued. Otherwise, the petition shall be dismissed with or without prejudice. Where proposed construction has not been established definitely, the permit will be issued on the route or location as set forth in the petition, subject to deviation of up to 660 feet (one-eighth mile) on either side of the proposed route. If the proposed construction is not completed within two years from the date of issue, subject to extension at the discretion of the board, the permit shall be void and of no further force or effect. Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline shall be filed with the board.~~

~~A permit shall normally expire 25 years from date of issue. No permit shall be granted for a period longer than 25 years.~~

13.7(1) A pipeline permit shall be issued once an order granting the permit is final and the compliance requirements have been met. A pipeline company may request board approval to delay obtaining consent to cross railroad right-of-way until after the pipeline permit is issued.

13.7(2) The issuance of the permit authorizes construction on the route or location as approved by the board, subject to deviation within the permanent route easement right-of-way. If a deviation outside the permanent route easement right-of-way becomes necessary, construction of the line in that location shall be suspended and the pipeline company shall follow the procedures for filing a petition for amendment of a permit, except that the pipeline company need only file Exhibits A, B, E and F reflecting the proposed deviation. In case of any deviation from the approved permanent route easement, the pipeline company shall secure the necessary easements before construction may commence on the altered route. The right of eminent domain shall not be used to acquire any such easement except as specifically approved by the board, and a hearing will not be required unless the board determines a hearing is necessary to complete a review of the petition for amendment.

13.7(3) If the construction of facilities authorized by a permit is not commenced within two years of the date the permit is granted, or within two years after final disposition of judicial review of a permit or of condemnation proceedings, the permit shall be forfeited, unless the board grants an extension of the permit filed prior to the expiration of the two-year period.

13.7(4) Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline, in compliance with 199—Chapter 9 and revised Exhibits A, B, and C, shall be filed with the board.

13.7(5) The board shall set the term of the permit. The term of the permit may be less than, but shall not exceed, 25 years from the date of issuance.

ITEM 11. Amend rule 199—13.8(479B) as follows:

~~199—13.8(479B) Renewal permits. A petition for renewal of permit may be filed at any time subsequent to issuance of a permit and prior to expiration. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as a part of the form. The procedure for petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs. If review of the petition finds unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the matter will be set for hearing. If a hearing is not required, a renewal permit will be issued upon the filing of the proof of publication required by subrule 13.4(1). Renewal permits shall normally expire 25 years from date of issue. No permit shall~~

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~~be granted for a period longer than 25 years. The same procedure shall be followed for subsequent renewals.~~

13.8(1) A petition for renewal of an original or previously renewed pipeline permit may be filed at any time subsequent to issuance of the permit and shall be filed at least one year prior to expiration of the permit. This requirement is not applicable to renewal of permits that expire within one year of [the effective date of this subrule]. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as part of the form, and the form is available on the board's website. The petition shall include the name of the pipeline company requesting renewal of the permit, the pipeline company's principal office and place of business, a description of any amendment or reportable change since the permit or previous renewal permit was issued, and the same exhibits as required for a new permit. The petition shall be considered filed with the board on the date accepted into the board's electronic filing system as provided for in 199—Chapter 14. The petition shall be attested to by an officer, official, or attorney with authority to represent the pipeline company.

13.8(2) The procedure for a petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs.

13.8(3) If there are unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the board shall set the matter for hearing. If a hearing is not required, and the petition satisfies the requirements of this rule, a renewal permit will be issued upon the filing of the proof of publication as required by rule 199—13.4(479B).

13.8(4) The board shall set the term of a renewal permit. The term may be less than, but shall not exceed, 25 years from the date of issuance. The same procedure shall be followed in subsequent renewals.

~~This rule is intended to implement Iowa Code sections 476.2 and 479B.14.~~

ITEM 12. Amend rule 199—13.9(479B) as follows:

199—13.9(479B) Amendment of permits.

13.9(1) An amendment of a pipeline permit by the board is required in any of the following circumstances:

a. Construction of a an additional pipeline paralleling all or part of an existing line pipeline of petitioner; the pipeline company.

b. Extension of an existing pipeline of ~~petitioner~~ by more than 660 feet (one-eighth mile); the pipeline company outside of the permitted permanent route easement.

c. Relocation or replacement of an existing pipeline of ~~petitioner~~ the pipeline company which:

(1) Relocates the pipeline ~~more than 660 feet (one-eighth mile) from the route~~ outside of the permitted permanent route easement approved by the board; or

(2) Involves relocation or replacement requiring new or additional interests in property. If the relocation or replacement is for five miles or more of pipe to be operated at over in excess of 150 psig pounds per square inch gauge. ~~Informational meetings~~ An informational meeting, as provided for by rule 199—13.3(479B) 199—13.2(479B), shall be held for these relocations and replacements.

d. Contiguous extension of an underground storage area of ~~petitioner; or the pipeline company.~~

e. Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit or previous renewal of the permit.

13.9(2) Petition for amendment.

a. The petition for amendment shall include the docket number and issue date of the permit for which amendment is sought and shall clearly state the purpose of the petition. If the petition is for construction of additional pipeline facilities, or expansion of an underground storage area, the same exhibits as required for a petition for permit shall be attached.

b. The applicable procedures for petition for permit, including hearing, shall be followed. Upon appropriate determination by the board, an amendment to a permit ~~will~~ shall be issued. The amendment shall be subject to the same conditions with respect to ~~completion~~ commencement of construction within two years and the filing of final routing maps as ~~attached to a permit~~ required for pipeline permits.

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ITEM 13. Amend rule 199—13.10(479B) as follows:

199—13.10(479B) Fees and expenses. ~~The petitioner pipeline company shall pay the actual unrecovered cost incurred by the board attributable to the informational meeting, processing, investigation, and hearing, inspection related to a petition requesting a pipeline permit action, and any other activity of the board related to a pipeline permit, pursuant to 199—Chapter 17.~~

~~Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.~~

ITEM 14. Renumber rule **199—13.12(479B)** as **199—13.11(479B)**.

ITEM 15. Amend renumbered rule 199—13.11(479B) as follows:

199—13.11(479B) Land restoration. Pipelines shall be constructed in compliance with ~~199 IAC 199—Chapter 9, “Restoration of Agricultural Lands During and After Pipeline Construction.”~~

ITEM 16. Renumber rule **199—13.14(479B)** as **199—13.12(479B)**.

ITEM 17. Amend renumbered rule 199—13.12(479B) as follows:

199—13.12(479B) Crossings of highways, railroads, and rivers.

13.12(1) Iowa Code chapter 479B gives the Iowa utilities board primary authority over the routing of pipelines. However, highway and railroad authorities and environmental agencies may have a jurisdictional interest in the routing of the pipeline, including requirements that permits or other authorizations be obtained prior to construction for crossings of highway or railroad right-of-way, or rivers or other bodies of water.

~~**13.12(2)** Except for other than approximate right angle crossings of highway or railroad right-of-way, the approval~~ Approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. ~~It is recommended the appropriate~~ The pipeline company shall file with the petition information that shows the pipeline company contacted the other necessary authorities be contacted well in advance of construction filing the petition to determine what restrictions or conditions may be placed on the crossing, by those authorities and to obtain information on any proposed reconstruction or relocation of existing facilities which may impact the routing of the pipeline. Approvals and any restrictions, conditions, or relocations of existing facilities are required to be filed with the board prior to the grant of the permit. A pipeline company may request board approval to begin construction on a segment of a pipeline prior to obtaining all necessary consents for construction of the entire pipeline.

~~**13.12(2)**~~ **13.12(3)** Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on the right-of-way, shall not be constructed unless a showing of consent by the appropriate authority has been provided by the petitioner pipeline company as required in paragraph 13.2(1)“e.” 13.3(1)“e.”

ITEM 18. Renumber rules **199—13.18(479B)** and **199—13.19(479B)** as **199—13.13(479B)** and **199—13.14(479B)**.

ITEM 19. Amend renumbered rule 199—13.13(479B) as follows:

199—13.13(479B) Reportable changes to pipelines under permit.

13.13(1) ~~The board~~ A pipeline company shall receive file prior notice with the board of any of the following actions affecting a pipeline under permit:

a. Abandonment or removal from service. The pipeline company shall also notify the landowners of the abandonment or removal of the pipeline from service.

b. Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline to within 300 feet of an occupied residence. Relocations of 660 feet (one-eighth mile) or more shall require the filing of a petition for amendment of a permit. Pressure test or increase in maximum allowable or normal operating pressure.

UTILITIES DIVISION[199](cont'd)

~~e. Change in product being transported.~~

~~d. c.~~ Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.

~~e. Extensions of existing pipelines by 660 feet (one eighth mile) or less.~~

13.13(2) The notice shall include the docket and permit numbers of the pipeline, the location involved, a description of the proposed activity, anticipated dates of commencement and completion, revised maps and facility descriptions, where appropriate, and the name and telephone number of a person to contact for additional information.

ITEM 20. Amend renumbered rule 199—13.14(479B) as follows:

199—13.14(479B) Sale or transfer of permit.

13.14(1) No permit shall be sold or transferred without ~~prior~~ written approval of the board. A petition for approval of the sale or transfer shall be jointly filed by the buyer, or transferee, and the seller, or transferor, and shall include assurances that the buyer, or transferee, is authorized to transact business in the state of Iowa; ~~that the buyer and~~ is willing and able to construct, operate, and maintain the pipeline in accordance with these rules; ~~and, if.~~ If the sale, or transfer, is prior to completion of construction of the pipeline, that the buyer, or transferee, shall demonstrate it has the financial ability to pay, up to \$250,000 in for damages associated with construction or operation of the pipeline, up to \$250,000 or any other amount the board determined necessary when granting the permit.

~~**13.14(2)** No transfer of pipeline permit prior to completion of pipeline construction shall be effective until the person to whom the permit was issued files notice with the board of the transfer. The notice shall include the date of the transfer and the name and address of the transferee.~~

~~**13.14(3)** The board shall receive notice from the transferor of any other transfer of a pipeline permit after completion of construction.~~

13.14(2) For the purposes of this rule, reassignment of a pipeline permit as part of a name change or a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer and requires prior board approval.

ITEM 21. Adopt the following new rule 199—13.15(479B):

199—13.15(479B) Termination of petition for pipeline permit proceedings. If a pipeline company fails to correct an identified deficiency within six months after written notification by the board, or after such shorter period as the board may specify in the written notification, to cure an incomplete or deficient permit petition, or a pipeline company fails to publish the official notice within 90 days after the official notice is provided by the board, the board may dismiss the petition.

ARC 5404C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to consumable hemp products

The Inspections and Appeals Department hereby adopts new Chapter 32, “Consumable Hemp Products,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2020 Iowa Acts, House File 2581.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2581.

Purpose and Summary

The adoption of Chapter 32 implements 2020 Iowa Acts, House File 2581. The legislation defines “consumable hemp product” and provides for the manufacture, sale, and consumption of consumable hemp products. The legislation requires the Department to establish by rule packaging and labeling requirements for consumable hemp products. It also requires the Department to establish registration requirements for manufacturers and sellers of consumable hemp products, including standards for the revocation of registration.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 4, 2020, as **ARC 5265C**. The Department received public comments from seven individuals or entities and spoke with a number of individuals and entities regarding the proposed rules to answer questions.

The Department received two public comments requesting that the Department reconsider the prohibition against the sale of consumable hemp products at farmers markets, one public comment requesting elimination of the requirement for a certificate of free sale (note that a certificate of free sale is not required), one public comment relaying concerns regarding batch testing requirements, two public comments requesting that the Department reconsider the prohibition against sales in private residences, one public comment requesting that the Department reconsider the prohibition against sales through vending machines or at private parties, one public comment requesting that the Department strike the requirement for a telephone number or email address for the manufacturer, and one public comment requesting that the Department eliminate the consumable hemp retailer registration (note that consumable hemp retailer registration is required by 2020 Iowa Acts, House File 2581).

The Department made the following revisions to the rules since publication of the Notice:

1. Rule 481—32.1(204), Definitions: The definition of “accredited laboratory” was revised to clarify that the accreditation shall be for the analyses performed on consumable hemp products, the definition of “cannabidiol” was revised to reference its specific chemical compound number, the definition of “certificate of analysis” was revised to clarify that a certificate of analysis shall state whether a sample passed or failed any limits related to these analyses, a definition for “delta-9 tetrahydrocannabinol” was added that references its specific chemical compound number, a definition of “tetrahydrocannabinolic acid” was added that references its specific chemical compound number, and a definition of “total delta-9 tetrahydrocannabinol” was added.

2. Rule 481—32.2(204), Registration and posting: This rule was revised to provide that a registered consumable hemp manufacturer that exclusively sells consumable hemp products it has manufactured to consumers on a retail basis is not required to register as a consumable hemp retailer.

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

3. Rule 481—32.3(204) Testing requirements and documentation:

- Subparagraph 32.3(1)“b”(2): The certificate of analysis requirements were revised to clarify that the presence and concentration of cannabinoids includes delta-9 tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and any other cannabinoids for which the product is being marketed;

- Subrule 32.3(2): Toxicant limits were revised for consistency with testing required by other jurisdictions, particularly Oregon, and Iowa Medical Cannabidiol. Specific limits were modified as follows:

- Abamectin, deleted.
- Acephate, deleted.
- Acequinocyl, deleted.
- Acetamiprid, revised from 3,000 parts per billion to .2 parts per million.
- Aldicarb, revised from 100 parts per billion to .4 parts per million.
- Azoxystrobin, revised from 3,000 parts per billion to .2 parts per million.
- Bifenazate, revised from 3,000 parts per billion to .2 parts per million.
- Bifenthrin, deleted.
- Boscalid, revised from 3,000 parts per billion to .4 parts per million.
- Captan, deleted.
- Carbaryl, revised from 500 parts per billion to .5 parts per million.
- Carbofuran, revised from 100 parts per billion to .2 parts per million.
- Chlorantraniliprole, revised from 3,000 parts per billion to .2 parts per million.
- Chlordane, deleted.
- Chlorfenapyr, deleted.
- Chloromequat chloride, deleted.
- Chlorpyrifos, revised from 100 parts per billion to .6 parts per million.
- Clofentezine, deleted.
- Coumaphos, deleted.
- Cyfluthrin, deleted.
- Cypermethrin, revised from 1,000 parts per billion to 18 parts per million.
- Daminozide, deleted.
- DDVP (Dichlorvos), revised from 100 parts per billion to .1 parts per million.
- Diazinon, revised from 200 parts per billion to 2.6 parts per million.
- Dimethoate, deleted.
- Dimethomorph, deleted.
- Ethoprop(hos), 100 parts per billion, revised to Ethoprophos, .4 parts per billion.
- Etofenprox, revised from 100 parts per billion to .4 parts per million.
- Etoxazole, deleted.
- Fenhexamid, deleted.
- Fenoxycarb, deleted.
- Fenpyroximate, deleted.
- Fipronil, revised from 100 parts per billion to 1 part per million.
- Flonicamid, revised from 2,000 parts per billion to 1 part per million.
- Fludioxonil, deleted.
- Hexythiazox, deleted.
- Imazalil, deleted.
- Imidacloprid, revised from 3,000 parts per billion to .4 parts per million.
- Kresoxim-methyl, deleted.
- Malathion, deleted.
- Metalaxyl, revised from 3,000 parts per billion to .2 parts per million.
- Methiocarb, revised from 100 parts per billion to .4 parts per million.
- Methomyl, revised from 100 parts per billion to .4 parts per million.
- Methyl parathion, revised from 100 parts per billion to 8.5 parts per million.

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- o Mevinphos, deleted.
- o Myclobutanil, revised from 3,000 parts per billion to .3 parts per million.
- o Naled, deleted.
- o Oxamyl, revised from 500 parts per billion to 1 part per million.
- o Paclobutrazol, deleted.
- o Pentachloronitrobenzene, deleted.
- o Permethrin, revised from 1,000 parts per billion to 1.1 parts per million.
- o Phosmet, deleted.
- o Piperonyl butoxide, deleted.
- o Prallethrin, deleted.
- o Propiconazole, deleted.
- o Propoxur, deleted.
- o Pyrethrins, deleted.
- o Pyridathben, 3,000 parts per billion, revised to Pyridaben, .2 parts per million.
- o Spinetoram, deleted.
- o Spinosad A and D, deleted.
- o Spiromesifen, deleted.
- o Spirotetramat, deleted.
- o Spiroxamine, revised from 100 parts per billion to 2 parts per million.
- o Tebuconazole, revised from 1,000 parts per billion to .4 parts per million.
- o Thiacloprid, revised from 100 parts per billion to .2 parts per million.
- o Thiamethoxam, revised from 1,000 parts per billion to .2 parts per million.
- o Trifloxystrobin, deleted.
- o 1,2-Dichloroethene, deleted.
- o 1,1-Dichloroethene, deleted.
- o Added 1,2-Dimethoxyethane, 100 parts per billion.
- o Added 1,4-Dioxane, 380 parts per billion.
- o Added 1-Butanol, 5,000 parts per billion.
- o Added 1-Pentanol, 5,000 parts per billion.
- o Added 1-Propanol, 5,000 parts per billion.
- o Added 2-Butanol, 5,000 parts per billion.
- o Added 2-Butanone, 5,000 parts per billion.
- o Added 2-Ethoxyethanol, 5,000 parts per billion.
- o Added 2-Methylbutane, 5,000 parts per billion.
- o Added 2-Propanol (IPA), 5,000 parts per billion.
- o Acetonitrile, revised from 410 parts per million to 410 parts per billion.
- o Benzene, revised from 2 parts per million to 2 parts per billion.
- o Butane, revised from 2,000 parts per million to 5,000 parts per billion.
- o Chloroform, deleted.
- o Added Cumene, 70 parts per billion.
- o Added Cyclohexane, 3,880 parts per billion.
- o Added Dichloromethane, 600 parts per billion.
- o Added 2,2-dimethylbutane, 290 parts per billion.
- o Added 2,3-dimethylbutane, 290 parts per billion.
- o Added 1,2-dimethylbenzene, 2,170 parts per billion.
- o Added 1,3-dimethylbenzene, 2,170 parts per billion.
- o Added 1,4-dimethylbenzene, 2,170 parts per billion.
- o Added Dimethyl sulfoxide, 5,000 parts per billion.
- o Ethanol, revised from 5,000 parts per million to 5,000 parts per billion.
- o Ethyl acetate, revised from 5,000 parts per million to 5,000 parts per billion.
- o Ethyl Ether, revised from 5,000 parts per million to 5,000 parts per billion.
- o Ethylene Oxide, revised from 5 parts per million to 50 parts per billion.

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- o Heptane, revised 5,000 from parts per million to 5,000 parts per billion.
- o Revised Hexane, 290 parts per million, to n-Hexane, 290 parts per billion.
- o Revised Isopropyl alcohol, 500 parts per million, to Isopropyl acetate, 5,000 parts per billion.
- o Methanol, revised from 3,000 parts per million to 3,000 parts per billion.
- o Methylene chloride, deleted.
- o Added Methylpropane, 5,000 parts per billion.
- o Added 2-Methylpentane, 290 parts per billion.
- o Added 3-Methylpentane, 290 parts per billion.
- o Added N,N-dimethylacetamide, 1,090 parts per billion.
- o Pentane, revised from 5,000 parts per million to 5,000 parts per billion.
- o Propane, revised from 2,100 parts per million to 5,000 parts per billion.
- o Added Pyridine, 200 parts per billion.
- o Added Sulfolane, 160 parts per billion.
- o Added Tetrahydrofuran, 720 parts per billion.
- o Toluene, revised from 890 parts per million to 890 parts per billion.
- o Trichloroethylene (1,1,2-Trichloroethene), deleted.
- o Xylenes, Total (ortho-, meta-, para-), revised from 2,170 parts per million to 2,170 parts per billion.
- o Cadmium, revised from 0.5 micrograms/gram to 0.3 parts per million.
- o Lead, revised from 0.5 micrograms/gram to 1.0 part per million.
- o Arsenic, revised from 1.5 micrograms/gram to 1.5 to parts per million.
- o Mercury, revised from 3.0 micrograms/gram to .5 parts per million.
- o “Pathogen limits” revised for clarification to “microbiological impurities limits.”
- o “Other pathogenic *E. coli*” removed from the shiga toxin-producing *Escherichia coli* (STEC) limit; limit was revised to include “no detection” in addition to “none present.”
- o *Listeria monocytogenes* limit, deleted.
- o Added limit for “total aerobic microbial count.”
- o *Salmonella* limit, revised to include “no detection” in addition to “none present.”
- o Added “total combined yeast mold count.”

4. Rule 481—32.5(204), Applicability of other laws and regulations: Subrules 32.5(2) to 32.5(4) were revised to clarify that a consumable hemp retailer may introduce any consumable hemp product into alcoholic beverage products, meat or poultry, or dairy products sold to consumers on a retail basis in intrastate commerce.

5. Rule 481—32.6(204), Prohibitions: Paragraph 32.6(1)“b” was revised to remove “farmers market food stand” from the list of prohibited temporary locations; a new subrule 32.6(2) was added to set forth conditions under which consumable hemp products may be sold at farmers market food stands; and subrules 32.6(2) to 32.6(4) were renumbered as 32.6(3) to 32.6(5).

6. Rule 481—32.8(204), Denial, suspension, or revocation of registration: Paragraph 32.8(3)“d” was revised to add “until discharged.”

Adoption of Rule Making

This rule making was adopted by the Department on January 6, 2021.

Fiscal Impact

After analysis and review of this rule making, the Department anticipates the following fiscal impact to the State of Iowa:

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	Year 1 Costs	Year 2 Costs
Electronic Registration System Implementation Cost	\$45,000	=
Annual System Support and Maintenance Costs	=	\$15,000
0.5 Clerk FTE Position	\$30,000	\$30,000
1.0 Environmental Specialist Senior Position	\$72,000	\$72,000
Miscellaneous Costs	\$15,000	\$5,000
Total Bureau Costs	\$162,000	\$122,000

Jobs Impact

After analysis and review of this rule making, there may be a positive impact on jobs. This rule making, in conjunction with the authorizing legislation (2020 Iowa Acts, House File 2581), legalizes the manufacture and sale of consumable hemp in the State of Iowa. Growers, manufacturers, and retail stores now have the ability to grow, manufacture, and sell consumable hemp products in Iowa. After initial conversations with the industry, the Department anticipates approximately 125 grocery stores, 118 convenience stores, 50 smoke/vape/tobacco stores, 60 hemp/CBD stores, and 50 restaurants may register to sell consumable products and approximately 20 manufacturers may register to manufacture consumable hemp products. House File 2581 authorizes the Department to charge for the cost of processing the registration. The cost for processing the registration will only impact entities wanting to sell or manufacture consumable hemp products in Iowa.

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 481—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 March 3, 2021.

The following rule-making action is adopted:

Adopt the following **new** 481—Chapter 32:

CHAPTER 32
CONSUMABLE HEMP PRODUCTS

481—32.1(204) Definitions. For the purpose of these rules, the following terms shall have the meanings indicated in this chapter. The definitions set out in Iowa Code section 204.2 shall be considered to be incorporated verbatim herein.

“*Accredited laboratory*” means a laboratory accredited in accordance with the International Organization for Standardization/International Electrotechnical Commission Standard (ISO/IEC) 17025 or a comparable or successor standard for the analyses performed on consumable hemp products.

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“*Adulterated*” means the same as in the Federal Food, Drug, and Cosmetic Act, Section 402, except that a consumable hemp product is not deemed “adulterated” pursuant to this chapter solely because it contains a hemp product not generally recognized as safe by the Federal Food and Drug Administration.

“*Approved hemp source*” means a manufacturer of a consumable hemp product that is engaged in the wholesale or retail sale of the product and that is:

1. Located in this state and manufactures the consumable hemp product in compliance with Iowa Code chapter 204 and these rules; or
2. Located in a state that has a state hemp plan approved by the United States Department of Agriculture under 7 U.S.C. Chapter 38, Subchapter VII.

“*Cannabidiol*” or “*CBD*” means the specific chemical compound with the Chemical Abstracts Service number 13956-29-1.

“*Certificate of analysis*” or “*COA*” means an official document released by an accredited laboratory following an analysis of a consumable hemp product. The certificate of analysis shall contain the concentrations of cannabinoids, pesticides, residual solvents, metals, harmful pathogens, and toxicants, including data on levels of total delta-9 tetrahydrocannabinol (THC) content concentration and whether a sample passed or failed any limits related to these analyses.

“*Certificate of free sale*” means a government certification that products such as food, drugs, medicine, or cosmetics are approved for unrestricted sale in the jurisdiction in which they originate.

“*Consumable hemp establishment*” means an individual or entity engaged in manufacturing, processing, packing, holding, preparing, distributing, or selling a consumable hemp product in Iowa or to purchasers located in Iowa. A consumable hemp establishment does not include an individual or entity manufacturing, processing, packing, holding, preparing, distributing, or selling a consumable hemp product containing only hemp seed or hemp seed-derived food ingredients generally recognized as safe (GRAS) under the conditions of use by the United States Food and Drug Administration.

“*Consumable hemp manufacturer*” means a consumable hemp establishment engaged in manufacturing, processing, packing, holding, preparing, distributing, or selling a consumable hemp product on a wholesale basis. A consumable hemp manufacturer includes individuals and entities outside of Iowa that distribute consumable hemp products in Iowa. A consumable hemp manufacturer does not include individuals or entities exclusively engaged in the harvesting, storage, or distribution of raw hemp.

“*Consumable hemp product*” means a hemp product that includes a substance that is metabolized or is otherwise subject to a biotransformative process when introduced into the human body.

1. A consumable hemp product may be introduced into the human body by ingestion or absorption by any device including but not limited to an electronic device.
2. A consumable hemp product may exist in a solid or liquid state.
3. A hemp product is deemed to be a consumable hemp product if it is any of the following:
 - Designed by the processor, including the manufacturer, to be introduced into the human body.
 - Advertised as an item to be introduced into the human body.
 - Distributed, exported, or imported for sale or distribution to be introduced into the human body.
4. “Consumable hemp product” includes, but is not limited to, any of the following:
 - A noncombustible form of hemp that may be digested, such as food; internally absorbed, such as chew or snuff; or absorbed through the skin, such as a topical application.
 - Hemp processed or otherwise manufactured, marketed, sold, or distributed as human food, a human food additive, a human dietary supplement, or a human drug.
5. “Consumable hemp product” does not include a hemp product if the intended use of the hemp product is introduction into the human body by any method of inhalation, as prohibited under Iowa Code section 204.14A.

“*Consumable hemp retailer*” means a consumable hemp establishment selling consumable hemp product to consumers on a retail basis. A consumable hemp retailer includes an establishment selling consumable hemp products online.

“*Delta-9 tetrahydrocannabinol*” or “*THC*” means the specific chemical compound with the Chemical Abstracts Service number 1972-08-3.

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“Department” means the Iowa department of inspections and appeals.

“Expiration date” means the month and year as determined by the manufacturer, packer, or distributor on the basis of tests showing that the product, until that date, under the conditions of handling, storage, preparation, and use per label directions, will, when consumed, contain not less than the quantity of each ingredient as set forth on its label.

“Food” means the same as defined in Iowa Code section 137F.1. Food includes human dietary supplements and alcoholic beverages.

“Harvesting” applies to farms and farm mixed-type facilities and means activities that are traditionally performed on farms for the purpose of removing raw agricultural commodities from the place they were grown or raised and preparing them for use as food. Harvesting is limited to activities performed on raw agricultural commodities, or on processed foods created by drying/dehydrating a raw agricultural commodity without additional manufacturing/processing, on a farm. Harvesting does not include activities that transform a raw agricultural commodity into a processed food as defined in Section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Examples of harvesting include cutting (or otherwise separating) the edible portion of the raw agricultural commodity from the crop plant and removing or trimming part of the raw agricultural commodity (e.g., foliage, husks, roots or stems). Examples of harvesting also include cooling, field coring, filtering, gathering, hulling, shelling, sifting, threshing, trimming of outer leaves of, and washing raw agricultural commodities grown on a farm.

“Jurisdiction of origin” means the federal, state, or local regulatory jurisdiction that has the authority to conduct inspections of the facility in which a consumable hemp product was most recently subject to a manufacturing/processing activity.

“Lot number” means a specific quantity of raw hemp or processed hemp product that is uniform and intended to meet specifications for identity, strength, purity, and composition that shall contain the manufacturer’s, processor’s, or distributor’s number and a sequence to allow for inventory, traceability, and identification of the plant batches used in the production of consumable hemp products.

“Manufacturing/processing” means making food from one or more ingredients, or synthesizing, preparing, treating, modifying or manipulating food, including food crops or ingredients. Examples of manufacturing/processing activities include: baking, boiling, bottling, canning, cooking, cooling, cutting, distilling, drying/dehydrating raw agricultural commodities to create a distinct commodity (such as drying/dehydrating grapes to produce raisins), evaporating, eviscerating, extracting juice, formulating, freezing, grinding, homogenizing, irradiating, labeling, milling, mixing, packaging (including modified atmosphere packaging), pasteurizing, peeling, rendering, treating to manipulate ripening, trimming, washing, or waxing. For farms and farm mixed-type facilities, manufacturing/processing does not include activities that are part of harvesting, packing, or holding.

“Misbranded” means a food that violates 21 U.S.C. Section 343.

“QR code” means a quick response machine-readable code that can be read by a camera, consisting of an array of black and white squares used for storing information or directing or leading a user to product information regarding manufacturer data and accredited laboratory certificates of analysis.

“Raw agricultural commodity” means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

“Raw hemp” means an unprocessed hemp plant, or any part of the hemp plant, in its raw or natural state. Raw hemp is a raw agricultural commodity.

“Tetrahydrocannabinolic acid” or *“THCA”* means the specific chemical compound with the Chemical Abstracts Service number 23978-85-0.

“Total delta-9 tetrahydrocannabinol” or *“total THC”* means 87.7 percent of the amount of tetrahydrocannabinolic acid plus the amount of delta-9 tetrahydrocannabinol.

481—32.2(204) Registration and posting. A consumable hemp establishment shall not engage in manufacturing, processing, packing, holding, preparing, distributing, or selling a consumable hemp product in Iowa or to purchasers located in Iowa until it has submitted a consumable hemp registration that is approved by the department.

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32.2(1) Consumable hemp manufactures/distributors. Consumable hemp manufacturers shall register with the department at least 30 days prior to manufacturing, processing, packing, holding, preparing, distributing, or selling any consumable hemp product in Iowa or to purchasers located in Iowa. The consumable hemp manufacturer shall:

- a. Complete the online registration form prescribed by the department;
- b. Remit the registration fee set by the department in accordance with Iowa Code section 204.7; and
- c. Submit a complete list of all consumable hemp products the consumable hemp manufacturer intends to manufacture, process, pack, hold, prepare, distribute, or sell, along with documentation of the jurisdiction of origin for each consumable hemp product.

32.2(2) Consumable hemp retailers. Consumable hemp retailers shall register with the department at least 30 days prior to selling any consumable hemp product in Iowa or to purchasers located in Iowa. The consumable hemp retailer shall:

- a. Complete the online registration form prescribed by the department;
- b. Remit the registration fee set by the department in accordance with Iowa Code section 204.7; and
- c. Submit a complete list of all consumable hemp products the consumable hemp retailer intends to sell, along with documentation of the jurisdiction of origin for each consumable hemp product.

32.2(3) Combined consumable hemp manufacturers and retailers. A consumable hemp establishment engaged in activities of a consumable hemp manufacturer and a consumable hemp retailer shall submit a separate registration for each activity. A registered consumable hemp manufacturer that exclusively sells consumable hemp products it has manufactured to consumers on a retail basis is not required to register as a consumable hemp retailer.

32.2(4) Physical location. A consumable hemp establishment's registration is valid for one physical location. A consumable hemp establishment that manufactures, processes, packs, holds, prepares, distributes, or sells a consumable hemp product at more than one physical location shall submit a separate registration for each physical location.

32.2(5) Expiration and renewal. A consumable hemp registration, unless sooner suspended or revoked, shall expire one year after the registration is approved by the department. A consumable hemp registration shall be renewed annually through the department's online registration system, accompanied by the required fee, at least 30 days prior to expiration. Consumable hemp registrations that are expired more than 60 days will be revoked without notice.

32.2(6) Transferability. A consumable hemp registration is not transferable to a new owner or new physical location.

32.2(7) Posting of registrations. A valid registration shall be posted on the premises of the consumable hemp establishment in a location that is visible to the public. An image of the valid registration must also be posted on any website or online point of sale in a location that is visible to the public prior to payment.

32.2(8) Returned payments. The department will attempt to redeem a payment submitted for a consumable hemp registration that is not honored by the bank on which it is drafted. The department will notify the applicant of the need to provide sufficient payment. An additional fee of \$25 shall be assessed for each dishonored payment. If the department does not receive payment, the establishment will be operating without a valid registration and is subject to penalties set forth in rules 481—32.7(204) and 481—32.8(204) (violations and enforcement; denial, suspension, or revocation of registration).

481—32.3(204) Testing requirements and documentation.

32.3(1) Approved hemp source; certificate of analysis. A consumable hemp product shall not be distributed or sold unless:

a. The consumable hemp product is from an approved hemp source and is accompanied by documentation that identifies the jurisdiction of origin. Documentation that identifies the jurisdiction of origin includes:

- (1) Certificate of free sale issued by the jurisdiction of origin;

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- (2) Product label statements, provided the product label identifies the jurisdiction of origin; or
- (3) Other documentation that identifies the jurisdiction of origin and also identifies the following:
 1. Brand name;
 2. Container size in terms of net quantity of contents; and
 3. Lot number.
- b.* The consumable hemp product has a certificate of analysis prepared by an independent accredited laboratory that verifies and states:
 - (1) The consumable hemp product is from a batch that has been tested by the independent accredited laboratory;
 - (2) The presence and concentration of cannabinoids, including delta-9 tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and any other cannabinoids for which the product is being marketed;
 - (3) The consumable hemp product is from a batch that contained a total delta-9 tetrahydrocannabinol concentration that did not exceed 0.3 percent on a dry weight basis as calculated pursuant to an official postdecarboxylation analysis, as provided in Iowa Code section 204.8; and
 - (4) The consumable hemp product is from a batch that has been tested for pesticides, residual solvents, metals, harmful pathogens, and toxicants and does not exceed limits established in this rule.

32.3(2) Toxicant limits. If a testing sample is found to contain levels of any pesticide, residual solvent, metal, harmful pathogen, or toxicant that exceeds limits enumerated in this rule or by Iowa law, the product shall be considered adulterated and shall not enter commerce. The following lists of contaminants do not constitute authorization to use or apply any of the following during hemp cultivation or processing.

- a.* Pesticide limits.
 - (1) Acetamiprid, .2 parts per million.
 - (2) Aldicarb, .4 parts per million.
 - (3) Azoxystrobin, .2 parts per million.
 - (4) Bifenazate, .2 parts per million.
 - (5) Boscalid, .4 parts per million.
 - (6) Carbaryl, .5 parts per million.
 - (7) Carbofuran, .2 parts per million.
 - (8) Chlorantraniliprole, .2 parts per million.
 - (9) Chlorpyrifos, .6 parts per million.
 - (10) Cypermethrin, 18 parts per million.
 - (11) Diazinon, 2.6 parts per million.
 - (12) Dichlorvos, .1 parts per million.
 - (13) Ethoprophos, .4 parts per million.
 - (14) Etofenprox, .4 parts per million.
 - (15) Fipronil, 1 part per million.
 - (16) Flonicamid, 1 part per million.
 - (17) Imidacloprid, .4 parts per million.
 - (18) Metalaxyl, .2 parts per million.
 - (19) Methiocarb, .4 parts per million.
 - (20) Methomyl, .4 parts per million.
 - (21) Methyl parathion, 8.5 parts per million.
 - (22) Myclobutanil, .3 parts per million.
 - (23) Oxamyl, 1 part per million.
 - (24) Permethrin, 1.1 parts per million.
 - (25) Pyridaben, .2 parts per million.
 - (26) Spiroxamine, 2 parts per million.
 - (27) Tebuconazole, .4 parts per million.
 - (28) Thiacloprid, .2 parts per million.
 - (29) Thiamethoxam, .2 parts per million.

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b. Residual solvent limits.

- (1) 1,2-Dimethoxyethane, 100 parts per billion.
- (2) 1,4-Dioxane, 380 parts per billion.
- (3) 1-Butanol, 5,000 parts per billion.
- (4) 1-Pentanol, 5,000 parts per billion.
- (5) 1-Propanol, 5,000 parts per billion.
- (6) 2-Butanol, 5,000 parts per billion.
- (7) 2-Butanone, 5,000 parts per billion.
- (8) 2-Ethoxyethanol, 5,000 parts per billion.
- (9) 2-methylbutane, 5,000 parts per billion.
- (10) 2-Propanol (IPA), 5,000 parts per billion.
- (11) Acetone, 5,000 parts per billion.
- (12) Acetonitrile, 410 parts per billion.
- (13) Benzene, 2 parts per billion.
- (14) Butane, 5,000 parts per billion.
- (15) Cumene, 70 parts per billion.
- (16) Cyclohexane, 3,880 parts per billion.
- (17) Dichloromethane, 600 parts per billion.
- (18) 2,2-dimethylbutane, 290 parts per billion.
- (19) 2,3-dimethylbutane, 290 parts per billion.
- (20) 1,2-dimethylbenzene, 2,170 parts per billion.
- (21) 1,3-dimethylbenzene, 2,170 parts per billion.
- (22) 1,4-dimethylbenzene, 2,170 parts per billion.
- (23) Dimethyl sulfoxide, 5,000 parts per billion.
- (24) Ethanol, 5,000 parts per billion.
- (25) Ethyl acetate, 5,000 parts per billion.
- (26) Ethylbenzene, 2,170 parts per billion.
- (27) Ethyl ether, 5,000 parts per billion.
- (28) Ethylene glycol, 620 parts per billion.
- (29) Ethylene oxide, 50 parts per billion.
- (30) Heptane, 5,000 parts per billion.
- (31) n-Hexane, 290 parts per billion.
- (32) Isopropyl acetate, 5,000 parts per billion.
- (33) Methanol, 3,000 parts per billion.
- (34) Methylpropane, 5,000 parts per billion.
- (35) 2-Methylpentane, 290 parts per billion.
- (36) 3-Methylpentane, 290 parts per billion.
- (37) N,N-dimethylacetamide, 1,090 parts per billion.
- (38) Pentane, 5,000 parts per billion.
- (39) Propane, 5,000 parts per billion.
- (40) Pyridine, 200 parts per billion.
- (41) Sulfolane, 160 parts per billion.
- (42) Tetrahydrofuran, 720 parts per billion.
- (43) Toluene, 890 parts per billion.
- (44) Xylenes, Total (ortho-, meta-, para-), 2,170 parts per billion.

c. Metals limits.

- (1) Cadmium, 0.3 parts per million.
- (2) Lead, 1.0 part per million.
- (3) Arsenic, 1.5 parts per million.
- (4) Mercury, 0.5 parts per million.

d. Microbiological impurities limits.

- (1) Shiga toxin-producing *Escherichia coli* (STEC), none present or no detection.

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- (2) Total aerobic microbial count, 1×10^3 CFU/g (max acceptable count: 2,000).
- (3) Salmonella, none present or no detection.
- (4) Total combined yeast mold count, 1×10^2 CFU/g (max acceptable count: 200).
- e. Mycotoxin limits.
 - (1) Total aflatoxin (B1, B2, G1, G2), 20 parts per billion.
 - (2) Ochratoxin, 20 parts per billion.

32.3(3) Examination of records. All documentation required by this rule shall be maintained by the consumable hemp establishment and provided to the department or other regulatory authority immediately upon request.

32.3(4) Independent accredited laboratory. A consumable hemp establishment shall not utilize an accredited laboratory in which it has an ownership interest, unless the consumable hemp establishment holds less than a 10 percent ownership interest in the accredited laboratory if the accredited laboratory is a publicly traded company.

481—32.4(204) Packaging and labeling requirements.

32.4(1) Contents. Each consumable hemp product intended for individual retail sale shall be labeled such that a reasonable consumer would plainly identify the product as a consumable hemp product and shall contain the following information:

- a. Lot number;
- b. Expiration date;
- c. Product name;
- d. Name, telephone number, and email address of the product manufacturer;
- e. If specific cannabinoids are contained within or marketed for the product, the number of milligrams of each cannabinoid per serving and serving size;
- f. A certificate of analysis that the batch contained a total delta-9 tetrahydrocannabinol concentration that did not exceed 0.3 percent on a dry weight basis as calculated pursuant to an official test as provided in Iowa Code section 204.8.

32.4(2) Form. The labeling requirements of paragraphs 32.4(1) “d” and “f” may be in the form of:

- a. A uniform resource locator (URL) for the manufacturer’s Internet website that provides or links to the information required by this section; or
- b. A QR code or other bar code that may be scanned and that leads to the information required on the label.

481—32.5(204) Applicability of other laws and regulations.

32.5(1) A consumable hemp establishment shall comply with all relevant Iowa laws and regulations applicable to the manufacturing, processing, storage, distribution, and sale of food, including but not limited to Iowa Code chapter 137F (food establishments and food processing plants), Iowa Code chapter 137D (home bakeries), and regulations promulgated under those chapters.

32.5(2) An individual or entity subject to Iowa Code chapter 123 shall not introduce any consumable hemp product into the alcoholic beverage product for which the individual or entity is subject to Iowa Code chapter 123, unless the consumable hemp product is generally recognized as safe by the Federal Food and Drug Administration and is thus not deemed adulterated pursuant to the Federal Food, Drug, and Cosmetic Act, Section 402. A consumable hemp retailer may introduce any consumable hemp product into alcoholic beverage products sold to consumers on a retail basis in intrastate commerce.

32.5(3) An individual or entity subject to Iowa Code chapter 189A shall not introduce any consumable hemp product into the meat or poultry product for which the individual or entity is subject to Iowa Code chapter 189A, unless the consumable hemp product is generally recognized as safe by the Federal Food and Drug Administration and is thus not deemed adulterated pursuant to the Federal Food, Drug, and Cosmetic Act, Section 402. A consumable hemp retailer may introduce any consumable hemp product into meat or poultry sold to consumers on a retail basis in intrastate commerce.

32.5(4) An individual or entity subject to Iowa Code chapters 190 to 192 shall not introduce any consumable hemp product into the dairy product for which the individual or entity is subject to Iowa

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Code chapters 190 to 192, unless the consumable hemp product is generally recognized as safe by the Federal Food and Drug Administration and is thus not deemed adulterated pursuant to the Federal Food, Drug, and Cosmetic Act, Section 402. A consumable hemp retailer may introduce any consumable hemp products into dairy products sold to consumers on a retail basis in intrastate commerce.

32.5(5) Consumable hemp products in interstate commerce are subject to federal law. Compliance with Iowa Code chapter 204 and this chapter does not represent compliance with federal law.

481—32.6(204) Prohibitions.

32.6(1) A consumable hemp establishment shall not manufacture, process, pack, hold, prepare, distribute, or sell consumable hemp products:

a. On the premises of a private residence, except a portion of a private residence that is distinctly separate from any living space, that is dedicated to the production or sale of food, and that meets all applicable state and local regulations;

b. On the premises of a temporary location, including but not limited to a food stand, roadside stand, temporary booth, or any other temporary structure;

c. Door to door;

d. Through vending machines; or

e. At private parties.

32.6(2) A consumable hemp product may be sold at a stand at a farmers market, provided:

a. The farmers market is listed on the Iowa department of agriculture and land stewardship's farmers market directory;

b. The individual selling the consumable hemp maintains a valid consumable hemp retailer registration at any location where consumable hemp is stored;

c. The consumable hemp establishment registration is posted in plain sight at the farmers market stand; and

d. All consumable hemp products sold are listed and maintained up to date with the department.

32.6(3) A consumable hemp product label and any associated marketing materials shall not contain any claims that the consumable hemp product can be used in the diagnosis, cure, mitigation, treatment, or prevention of disease, or is intended to affect the structure or any function of the body.

32.6(4) A consumable hemp retailer shall not manufacture, process, package, repackage, relabel, mix, blend, or otherwise manipulate a consumable hemp product. This subrule does not apply to a food service establishment that utilizes a consumable hemp product from an approved hemp source as a food ingredient intended for immediate consumption by the consumer, provided that the food service establishment discloses all label information required by rule 481—32.4(204) (packaging and labeling requirements) to the consumer through the menu, a menu board, placard, table tent, or other effective means.

32.6(5) A consumable hemp product that does not conform to this chapter shall be considered adulterated or misbranded and shall not enter commerce.

481—32.7(204) Violations and enforcement.

32.7(1) Any consumable hemp product introduced into commerce by an individual or entity without a consumable hemp registration approved by the department in accordance with rule 481—32.2(204) (registration and posting) is subject to immediate embargo.

32.7(2) A consumable hemp product that is adulterated or misbranded when introduced into commerce is subject to immediate embargo.

32.7(3) A consumable hemp product that the department reasonably believes may be injurious to public health or that has entered commerce and is not in conformance with this chapter is subject to immediate embargo.

32.7(4) The embargo of a consumable hemp product shall be effective until such a time as the violation is remedied or the product is disposed of in a reasonable manner as determined by the department. If the violation cannot be remedied and disposal is required, the cost of disposal is the responsibility of the consumable hemp establishment. Disposal shall be observed by a person approved

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by the department. The embargo of a consumable hemp product may be appealed in accordance with rule 481—32.8(204) (denial, suspension, or revocation of registration).

32.7(5) A consumable hemp manufacturer shall conduct a recall of a consumable hemp product lot that has been tested and found to be adulterated. The cost of a recall or disposal of the product is the responsibility of the consumable hemp manufacturer.

481—32.8(204) Denial, suspension, or revocation of registration. The department may deny, suspend, or revoke a registration in any case where the department finds that there has been repeated failure on the part of the consumable hemp establishment to comply with the provisions of this chapter, or for any of the following reasons:

32.8(1) Failure to register. An individual or entity that introduces a consumable hemp product into commerce without a consumable hemp registration approved by the department in accordance with rule 481—32.2(204) (registration and posting) may be denied a consumable hemp registration for a period of up to 30 days for a first violation; up to one year for a second violation; and up to five years for a third or any subsequent violation.

32.8(2) Nonconforming consumable hemp product. A registered consumable hemp establishment that introduces a consumable hemp product into commerce that is not in conformance with Iowa Code chapter 204 or this chapter is subject to the immediate revocation of its registration.

32.8(3) Qualifying criminal offense.

a. The conviction of any individual with an ownership interest in a consumable hemp establishment constituting a felony, serious misdemeanor, or aggravated misdemeanor and resulting from an activity constituting a criminal offense in the consumable hemp establishment may result in the denial, suspension, or revocation of the registration.

b. A conviction for committing a criminal offense involving a controlled substance as described in Iowa Code section 204.7 may result in the denial, suspension, or revocation of the registration.

c. A certified copy of the final order or judgment of conviction or plea of guilty shall be conclusive evidence of the conviction of the registration holder.

d. A deferred judgment, until discharged, shall be considered a conviction for purposes of this rule.

32.8(4) False or misleading information. Providing false or misleading information to the department under this chapter, including by submitting a false registration, may result in the denial, suspension, or revocation of the registration.

32.8(5) Failure to comply. Failing to comply with an order issued by the department under this chapter may result in the denial, suspension, or revocation of the registration.

32.8(6) Successive violations. A third violation of any provision of this chapter in a five-year period shall result in the denial, suspension, or revocation of the registration. The department shall disapprove any registration of a consumable hemp establishment for a five-year period following the date of the last violation.

32.8(7) Materially false information supplied. An individual or entity who materially falsifies any information contained in a consumable hemp registration shall be ineligible for registration.

481—32.9(204) Inspection and access to records. The department may enter a consumable hemp establishment at any reasonable hour to assess compliance with Iowa Code chapter 204 and these rules. The manager or person in charge of the consumable hemp establishment shall afford free access to every part of the premises, including access to records related to consumable hemp products, and shall render all aid and assistance necessary to enable the regulatory authority to make a thorough and complete assessment.

481—32.10(204) Public examination of records.

32.10(1) *Public information.* Generally, information collected by the food and consumer safety bureau and contractors is considered public information. Records are stored in computer files and are

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

not matched with any other data system. Information is available for public review and will be provided when requested from the office of the director.

32.10(2) Confidential information.

a. The following are examples of confidential records:

- (1) Trade secrets and proprietary information including items such as formulations, processes, policies and procedures, and customer lists;
- (2) Health information related to foodborne illness complaints and outbreaks;
- (3) The name or any identifying information of a person who files a complaint with the department; and
- (4) Other state or federal agencies' records.

b. A party claiming that information submitted to the department contains trade secrets or proprietary information should clearly mark those portions of the submission as confidential/trade secret.

32.10(3) Other agencies' records. For records of other state or federal agencies, the department shall refer the requester of such information to the appropriate agency.

481—32.11(204) Appeals. All decisions of the food and consumer safety bureau may be contested by an adversely affected party. A request for a hearing must be made in writing to the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, within 30 days of the mailing or service of a decision. Appeals and hearings are controlled by 481—Chapter 9.

These rules are intended to implement 2020 Iowa Acts, House File 2581.

[Filed 1/6/21, effective 3/3/21]

[Published 1/27/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/27/21.

ARC 5405C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to license application procedures

The Board of Dietetics hereby amends Chapter 81, "Licensure of Dietitians," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 152A.2.

Purpose and Summary

This rule making revises the license application procedures to make them consistent with the online licensing process. This rule making eliminates requirements for written verification statements from didactic and internship programs or from the Commission on Dietetic Registration (CDR) to confirm completion of the academic and preprofessional practice requirements. It also adds requirements for telehealth practice.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 26, 2020, as **ARC 5156C**.

A public hearing was held on September 15, 2020, at 1 p.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. Several comments were received from the public regarding the Notice. The written comments were identical to the comments made at the public hearing.

A comment was made requesting that the Board eliminate its requirement for license applicants to submit academic transcripts. The commenter noted that the CDR, a national accreditation organization, already requires submission of academic transcripts. Finding that there is no need to duplicate the CDR's requirement, the Board directed that the requirement for submission of academic transcripts for licensure be eliminated.

Another comment concerned the registration status of license applicants with the CDR. The commenter requested that the Board require that an applicant's registration with the CDR be current at the time of license application. The Board has found that registration with the CDR, regardless of whether the license applicant has maintained a current status, is sufficient verification that the CDR's requirements for registration have been met. Moreover, the CDR's requirements for registration include the license requirements imposed under Iowa Code chapter 152A. The Board therefore did not make a change to this rule making in response to this comment.

An additional comment was made in support of the new telehealth rules as written in the Notice. In addition to reviewing public comments and directing that the transcript submission requirement be eliminated, the Board directed that a change be made to the submission procedure for license applications in order to make this procedure consistent with the current administrative procedure of the Professional Licensure Division. All applications to the Division's boards are now submitted online, and paper application forms are no longer available. The language regarding paper copies of application materials in subrule 81.4(1) has thus been stricken.

The Board also updated the link to the Accreditation Council for Education in Nutrition and Dietetics (ACEND) website for foreign-trained license applicants. Finally, minor grammatical changes have been made for the sake of language consistency when referring to the CDR.

Adoption of Rule Making

This rule making was adopted by the Board on December 4, 2020.

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 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).

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Effective Date

This rule making will become effective on March 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 645—81.4(152A) as follows:

645—81.4(152A) Requirements for licensure. The following criteria shall apply to licensure:

81.4(1) The applicant shall complete ~~a board-approved application packet~~ the application online at ibplicense.iowa.gov. ~~Application forms may be obtained from the board's website (www.idph.iowa.gov/licensure) or directly from the board office. All applications shall be sent to Board of Dietetics, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

81.4(2) The applicant shall complete the application ~~form~~ according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed ~~by the board~~.

81.4(3) Each application shall be accompanied by the appropriate fees ~~payable by check or money order to the Board of Dietetics~~. The fees are nonrefundable.

81.4(4) No application will be considered by the board until the applicant satisfactorily completes the registration examination for dietitians administered by the Commission on Dietetic Registration (CDR). The board will accept the passing score set by the CDR. Verification of satisfactory completion may be established by one of the following:

~~a. Official copies of academic transcripts have been sent directly from the school to the board;~~
~~b. Official verification statements have been sent to the board from the didactic and internship or preprofessional practice programs or from the Commission on Dietetic Registration (CDR) to verify completion of the academic and preprofessional practice requirements; and~~
~~c. The applicant satisfactorily completes the registration examination for dietitians administered by the Commission on Dietetic Registration (CDR). The board will accept the passing score set by CDR. Verification of satisfactory completion may be established by one of the following:~~

(1) ~~a.~~ The applicant sends to the board a ~~notarized~~ copy of the CDR registration card;
 (2) ~~b.~~ The CDR sends an official letter directly to the board to verify that the applicant holds registration status; or
 (3) ~~c.~~ The CDR posts web-based verification that the applicant holds registration status.

81.4(5) and 81.4(6) No change.

ITEM 2. Amend subrule 81.5(2) as follows:

81.5(2) A foreign-trained dietitian shall:

~~a. Provide an official letter sent directly from the Commission on Dietetic Registration (CDR) to the board to verify that the applicant has met the minimum academic and didactic program requirements of the CDR. Foreign degree equivalency evaluation requirements of the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND) are listed on the ACEND website at: www.eatrightpro.org/acend www.eatrightpro.org/acend/students-and-advancing-education/information-for-students/foreign-degree-evaluation-agencies; and~~

~~b. No change.~~

ITEM 3. Amend rule 645—81.7(152A) as follows:

645—81.7(152A) Licensure by endorsement. An applicant who has been a licensed dietitian under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. to 3. No change.

4. ~~Provides official copies of the academic transcripts;~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~5.~~ 4. Provides a ~~notarized~~ copy of the Commission on Dietetic Registration (CDR) registration card or an alternate form of verification of passing the registration examination, as stated in ~~81.4(4)“e”~~ 81.4(4)“a”; and

~~6.~~ 5. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- Licensee’s name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

ITEM 4. Adopt the following new rule 645—81.17(152A,272C):

645—81.17(152A,272C) Telehealth visits. A licensee may provide dietetic services to an individual or a group utilizing a telehealth visit if the dietetic services are provided in accordance with all the requirements of this chapter.

81.17(1) “Telehealth visit” means the provision of dietetic services by a licensee to an individual or a group using technology where the licensee and the individual or group are not at the same physical location for the therapy session.

81.17(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the individual or group. A licensee may use non-real-time technologies to prepare for a session or to communicate with an individual or a group between sessions.

81.17(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person dietetic services. A licensee shall not utilize a telehealth visit if the standard of care for the particular services cannot be met by using technology.

81.17(4) Any licensee who provides a telehealth visit to an individual or a group located in Iowa shall be licensed in Iowa.

81.17(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the individual or group specific to the services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the individual or group of the following:

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

81.17(6) A licensee shall identify in the clinical record when dietetic services are provided utilizing a telehealth visit.

[Filed 1/6/21, effective 3/3/21]

[Published 1/27/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/27/21.

ARC 5407C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to breath testing and standards for drug detection

The Public Safety Department hereby amends Chapter 157, “Devices and Methods to Test Body Fluids for Alcohol or Drugs,” Iowa Administrative Code.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 321J.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321J.2.

Purpose and Summary

These amendments to Chapter 157 modify the frequency with which evidentiary breath test devices must be certified. These amendments ensure a balance between the Division of Criminal Investigation laboratory staff resources and confirmation of accurate devices. Additionally, the Department is adopting amendments to controlled substance screening levels to allow for alternatives to immunoassay screening and to keep testing in line with the federal standards. The current language in the rule does not reference the correct and updated federal registry and associated wording for initial screening for certain drugs or categories of drugs and their metabolites. In short, the Department is amending the rule to match the content in the current federal registry.

The impact to the testing laboratory and stakeholders is that the revised federal registry allows for alternate technologies to immunoassay screening for drugs. The Department's laboratory is working on validation of one of those alternate technologies, which provides more specificity in the screening process. The Department cannot start using that technology for casework until the amendments to the rule become effective. Forensic toxicology laboratories are more often moving to alternate technologies to immunoassay screening. Immunoassay screening can be less specific and typically relies on proprietary test kits. If the vendor has a supply or quality issue, the turnaround time for the initial screening result can be greatly impacted. Finally, the American National Standards Institute-accredited American Academy of Forensic Science Standards Board, with the support of the National Highway Traffic and Safety Administration, is in the process of approving testing parameters for drug testing tailored for impaired driving, and the Department anticipates additional rule making at that time.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 2, 2020, as **ARC 5295C**. 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 January 6, 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

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

PUBLIC SAFETY DEPARTMENT[661](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 March 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 157.2(2) as follows:

157.2(2) A peace officer desiring to perform testing of a subject's breath for the purpose of determining the alcohol concentration shall employ, or cause to be used, a breath testing device of a type meeting the minimum performance requirements established in Highway Safety Programs; Model Specifications for Devices to Measure Breath Alcohol, Federal Register, Volume 58, No. 179 (September 17, 1993), pp. 48705-48708. All devices so used must be certified to be in proper working order within a period of one year immediately preceding use at least once per calendar year according to procedures specified for that device. The interval between certifications shall not be more than 450 days.

ITEM 2. Amend subrule 157.5(2) as follows:

157.5(2) Any peace officer using an approved device shall follow the instructions furnished by the manufacturer for use of such a device. The calibration of each unit shall be checked at least once per month, and the device shall be calibrated, if necessary, using a dry gas standard. The officer or officer's department shall maintain a record of each calibration. This record shall include:

- a. The identity of the ~~officer~~ person performing the calibration.
- b. The date.
- c. The value ~~and type~~ of standard used.
- d. The unit type and identification number.
- e. The expiration date of the standard used.

ITEM 3. Amend rule 661—157.7(321J) as follows:

661—157.7(321J) Detection of drugs other than alcohol.

157.7(1) *Adoption of federal standards.* Initial test requirements based upon standards adopted by the federal Substance Abuse and Health Services Administration in "Mandatory Guidelines for Federal Workplace Drug Testing Programs," ~~73 FR 71858~~ 82 FR 7920, and displayed in the following table are hereby adopted as standards for determining detectable levels of controlled substances in the division of criminal investigation criminalistics laboratory initial screening for controlled substances detected by the presence of the following: marijuana metabolites, cocaine metabolites, ~~opiate metabolites,~~ codeine/morphine, hydrocodone/hydromorphone, ~~acetylmorphine, phencyclidine, and amphetamines~~ oxycodone/oxymorphone, 6-acetylmorphine, phencyclidine, amphetamine/methamphetamine, and MDMA/MDA. The following table shows the minimum levels of these substances which will result in a finding that a controlled substance is present at a detectable level:

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Substance Initial test analyte	Minimum Level (ng/ml) Initial test cutoff ¹
Marijuana metabolites (THCA) ²	50 ng/ml ³
Cocaine metabolites (Benzoylcegonine)	150 ng/ml ³
Opiate metabolites —codeine/morphine Codeine/Morphine	2000 ng/ml
Acetylmorphine Hydrocodone/Hydromorphone	40 300 ng/ml
Phencyclidine Oxycodone/Oxymorphone	25 100 ng/ml
Amphetamines ² —(amphetamine, methamphetamine, and —methylenedioxymethamphetamine) 6-Acetylmorphine	500 10 ng/ml
Phencyclidine	25 ng/ml
Amphetamine/Methamphetamine	500 ng/ml
MDMA ⁴ /MDA ⁵	500 ng/ml

¹ “ng/ml” means “nanograms per milliliter.” For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory’s validated limit of quantification) must be equal to or greater than the initial test cutoff.

² ~~Either a single initial test kit or multiple initial test kits may be used provided that the single test kit detects each target analyte independently at the specified cutoff. An immunoassay must be calibrated with the target analyte, D-9-tetrahydrocannabinol-9-carboxylic acid (THCA).~~

³ Alternate technology (THCA and benzoylcegonine): The confirmatory test cutoff must be used for an alternate technology initial test that is specific for the target analyte (i.e., 15 ng/mL for THCA, 100 ng/mL for benzoylcegonine).

⁴ Methylenedioxymethamphetamine (MDMA).

⁵ Methylenedioxyamphetamine (MDA).

157.7(2) Reserved.

[Filed 1/6/21, effective 3/3/21]

[Published 1/27/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/27/21.

ARC 5408C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to flammable and combustible liquids

The State Fire Marshal hereby amends Chapter 221, “Flammable and Combustible Liquids,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 101.23.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 101.

Purpose and Summary

The purpose of amending Chapter 221 is to update the process for submittal of construction plans for review, plan review fees, and inspection fees and to provide contact information for the program.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 2, 2020, as **ARC 5296C**. No public comments were received. Minor changes from the Notice have been made for internal consistency.

Adoption of Rule Making

This rule making was adopted by the State Fire Marshal on January 6, 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

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(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 March 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **661—Chapter 221**, title, as follows:

FLAMMABLE ~~AND~~ OR COMBUSTIBLE LIQUIDS

ITEM 2. Amend rules 661—221.1(101) to 661—221.4(101) as follows:

661—221.1(101) Scope. This chapter provides the rules of the state fire marshal for safe transportation, storage, handling, and use of flammable ~~and~~ or combustible liquids. IFC, 2006 edition, sections 102.1 and 102.2, is adopted by reference.

221.1(1) The flammable or combustible liquids program is part of the aboveground flammable or combustible liquid storage tanks program and is located at the following address:

State Fire Marshal Division

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Iowa Department of Public Safety
Attn: Aboveground Storage Tank Administration
215 East 7th Street
Des Moines, Iowa 50319

221.1(2) The program may be contacted by electronic mail at sfmast@dps.state.ia.us or by the United States Postal Service.

221.1(3) The website for the flammable or combustible liquids program is: dps.iowa.gov/divisions/state-fire-marshal/licensing/above-ground-storage-tanks.

661—221.2(101) Definitions. The following definitions shall apply to rules 661—221.1(101) through 661—221.8(101). These definitions are adopted in addition to those which appear in the International Fire Code, 2006 edition; NFPA 30, Flammable and Combustible Liquids Code, 2003 edition; and NFPA 30A, Code for Motor Fuel Dispensing and Repair Garages, 2003 edition. If a definition adopted in this rule conflicts with a definition included in a code or standard adopted by reference in this chapter, the definition found in this rule shall apply.

“Approved by the state fire marshal” means a laboratory which has requested and received recognition by the state fire marshal to test equipment whose use or installation is required by rules of the state fire marshal, including rules in 661—Chapters 200 through 299, inclusive. A laboratory which seeks approval of the state fire marshal shall contact the state fire marshal division and shall provide information required by the state fire marshal. Approval or disapproval shall be granted only by a letter from the state fire marshal to the laboratory making the request, although advance notice of the decision of the state fire marshal regarding whether or not approval is to be granted may be provided by electronic mail.

“Diesel fuel” means a liquid, other than gasoline, which is suitable for use as a fuel in a diesel fuel-powered engine and which meets the applicable standards established in Iowa Code section 214A.2 and rule 21—85.33(214A,208A). A blend of “diesel fuel” which meets these standards and contains 6 percent biodiesel or more is “biodiesel fuel.” Diesel fuel blends which meet these standards and contain less than 6 percent biodiesel are diesel fuel and not biodiesel fuel.

“Fire State fire code official” means any employee of the state fire marshal division of the department of public safety, of any local fire department, or of the department of natural resources if the employee is operating under an agreement between the department of public safety and the department of natural resources.

“ICC” means the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.

“IFC” means the International Fire Code, published by the ICC. “IFC” will be followed by a year (e.g., IFC, 2006), which indicates the specific edition of the IFC to which reference is made.

“Independent testing laboratory” means a laboratory recognized by the federal Occupational Safety and Health Administration as a nationally recognized testing laboratory or a laboratory approved by the state fire marshal.

“Listed” means listed or approved by an independent testing laboratory for a specific use. A product shall be considered to be listed if it is of a model which has been listed for the use to which it is being put, whether it was manufactured prior to or after the date on which the listing became effective.

“Mobile air-conditioning system” means mechanical vapor compression equipment which is used to cool the driver or passenger compartment of any motor vehicle.

“NFPA” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

“SPCC plan” means a spill prevention, control and countermeasure plan, as defined in 40 CFR 112, published January 1, 2007.

“Under dispenser containment” or *“UDC”* means containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

661—221.3(101) Flammable ~~and~~ or combustible liquids. The International Fire Code, 2006 edition, published by the ICC, Chapter 34 and references contained therein, and NFPA 30, Flammable and Combustible Liquids Code, 2003 edition and references contained therein, are adopted by reference as the rules for transportation, storage, handling, and use of flammable ~~and~~ or combustible liquids. In any case in which a provision of the IFC conflicts with a provision of NFPA 30, the IFC provision shall apply. Any refinery shall comply with the provisions of this rule and with any applicable provisions of 661—Chapter 201.

221.3(1) The IFC, 2006 edition, is adopted with the following amendments:

a. and *b.* No change.

c. Add the following new sections:

3403.6.12 Each connection to an aboveground tank through which liquid can normally flow shall be provided with an external control valve that is located as close as practical to the shell of the tank. In addition to the control valve or any other normal tank valves, there shall be an emergency internal check valve at each pipe connection to any tank opening below normal liquid level. The emergency internal check valve shall be effectively located inside the tank shell and shall be operable both manually and by an effective heat-activated device that, in case of fire, will automatically close the valve to prevent the flow of liquid from the tank even though the pipelines from the tank are broken.

~~3403.6.13 Any new or replacement piping connected to an aboveground storage tank shall be double walled unless it lies entirely within the area of secondary containment.~~

3403.6.14 ~~3403.6.13~~ Any device dispensing Class I or Class II flammable liquids shall not be constructed or installed less than 100 feet from any existing dwelling unit.

d. to *f.* No change.

g. Delete section 3404.2.9.1.2.1, introductory paragraph, and insert in lieu thereof the following:

3404.2.9.1.2.1 Where foam fire protection is required, it shall be provided in accordance with NFPA 11, 2005 edition, and shall be of a type or types and amount appropriate to suppress fires involving types and amounts of flammable ~~and~~ or combustible liquids found on the premises. Where the flammable or combustible liquid contains more than 10 percent alcohol, the foam shall be alcohol-resistant. Fire-fighting foam shall be stored separately from any area in which flammable ~~and~~ or combustible liquids are stored and in an area or areas that will be readily accessible to fire fighters responding to a fire at the facility.

h. Amend the exception to section 3404.2.9.1.2.1 by adding the following new numbered paragraphs:

6. The premises ~~is~~ are not a refinery.

7. The premises ~~does~~ do not include bulk storage of flammable or combustible liquids.

8. The premises ~~does~~ do not contain total storage capacity to store one million gallons or more of flammable or combustible liquids.

i. No change.

221.3(2) No change.

221.3(3) Plans and plan review fees.

a. The owner of any premises on which flammable or combustible liquids are or will be stored or used is required to submit construction plans to the state fire marshal division, online or by mail as established in rule 661—221.1(101), prior to commencing initial construction of the facility or prior to commencing any construction at an existing facility which includes the addition or replacement of an aboveground flammable or combustible liquid storage tank. The construction plans shall be sealed by a licensed professional engineer if the facility at which the construction will occur is or will be a refinery or if preparation of the plans by a licensed professional engineer is required by another provision of Iowa law.

Construction for which plans are required to be submitted for review shall not commence until approval of the plan has been received from the state fire marshal.

EXCEPTION 1: Submission of construction plans is not required if the total flammable ~~and~~ or combustible liquid storage capacity on the premises is or will be 1,100 gallons or less.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

EXCEPTION 2: If an SPCC plan has been prepared pursuant to 40 CFR 112 for a facility other than a refinery, a copy of the SPCC plan may be submitted to the state fire marshal in lieu of submission of separate construction plans, provided that the SPCC plan includes all of the elements required to be included in construction plans for the specific facility in this subrule. If the state fire marshal agrees, copies of portions of the SPCC plan may be submitted in lieu of a copy of the complete plan provided that all elements of construction plans which are required for the specific facility by this subrule are included. If an SPCC plan or portions thereof are submitted to the state fire marshal, the person making the submission shall provide any additional information required by the state fire marshal to evaluate compliance with the provisions of this chapter and Iowa Code chapter 101. The copy of the SPCC plan or portions thereof submitted to the state fire marshal shall clearly identify the licensed professional engineer who prepared the plan or shall be accompanied by a letter making this identification.

b. No change.

c. Fees for plan reviews shall apply as follows:

(1) \$100 plus \$25 for each new or replacement tank included in the plan, for any site or facility at which flammable or combustible liquids are or will be stored, except for new construction of a refinery.

(2) \$500 for review of the initial construction plans of a refinery if the projected construction costs are \$100,000,000 or less and \$1,000 for the initial construction plans for a refinery if the projected construction costs are greater than \$100,000,000.

(3) The owner shall submit payment of plan review fees electronically or in the form of a check, money order, or warrant payable to Treasurer, State of Iowa the Iowa State Fire Marshal Division as established in rule 661—221.1(101). Payment shall not be made in cash.

d. Plan review fees shall be refunded to the submitter if the plan review has not been completed and the submitter has not been notified of approval or disapproval of the plans within 60 days of receipt of the complete plans by the state fire marshal division.

221.3(4) Inspections.

a. Any facility at which flammable or combustible liquids are stored is subject to inspection by any state fire code official during the regular business hours of the facility. If the facility does not operate under regular business hours, a state fire code official shall have access to the facility between 8 a.m. and 4 p.m. on any day which is a business day for the state of Iowa, within four hours of notifying the owner of intent to inspect the facility.

b. Any inspection of a facility pursuant to this subrule conducted by an employee of the state fire marshal division of the department of public safety shall result in an inspection fee of \$100 plus \$25 for each aboveground flammable or combustible liquid storage tank, except that there shall be no fee for an initial inspection or the first reinspection after an initial inspection that is conducted pursuant to the receipt of a complaint alleging that the facility is in violation of any provision of this chapter, 661—Chapter 224 or Iowa Code chapter 101. The owner shall submit payment of inspection fees electronically or in the form of a check, money order, or warrant payable to the Iowa State Fire Marshal Division as established in rule 661—221.1(101). Payment shall not be made in cash.

c. Inspections may be initiated by the inspecting official at random or on any other basis; may be conducted at the request of the owner, operator, or manager of a facility; or may be conducted to investigate allegations made in a complaint. Such a complaint shall be in writing and submitted as established in rule 661—221.1(101) and shall specify the location and nature of the alleged violations. The complainant may or may not be identified. Complainants who identify themselves may request to be notified of the outcome of the inspection conducted in response to the complaint.

661—221.4(101) Motor fuel dispensing facilities and repair garages. The International Fire Code, 2006 edition, published by the ICC, Chapter 22 and references contained therein, and NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2003 edition and references contained therein, are adopted by reference as the rules for motor fuel dispensing facilities and repair garages. If any provision of the International Fire Code adopted herein is in conflict with any provision of NFPA 30A, the International Fire Code provision shall apply. The International Fire Code, 2006 edition, Chapter 22, is adopted with the following amendments:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

221.4(1) No change.

221.4(2) Add the following new sections:

2206.7.1.1 Dispensing of blended biofuels.

2206.7.1.1.1 Definitions.

“*B-blend*” means biodiesel blended fuel as defined in Iowa Code section 214A.1 with the blend including between 6 and 20 percent biodiesel, as defined in Iowa Code section 214A.1.

NOTE: For purposes of the rules contained in this chapter and other chapters of rules of the state fire marshal (661—Chapters 200 through 299 inclusive), diesel fuel may contain biodiesel provided that the concentration of biodiesel is less than 6 percent in accordance with rule 21—85.33(214A,208A), which adopts by reference standards for the content of motor fuels established by ASTM International (formerly known as the American Society for Testing and Materials).

“*E-10*” means a blend of petroleum and ethanol including no more than 16 percent ethanol intended for use as a motor vehicle fuel.

“*E-blend*” means a blend of petroleum and ethanol including more than 16 percent ethanol intended for use as a motor vehicle fuel.

“*Existing E-blend dispenser*” means a dispenser installed on or before October 24, 2010, for use in dispensing E-blend.

2206.7.1.1.2 E-blend may be dispensed only if (1) or (2) applies:

(1) ~~The~~ the dispenser is listed by an independent testing laboratory for use with E-blend or E-85.

(2) ~~The dispenser is an existing E-blend dispenser and either (a) or (b) applies:~~

(a) ~~The dispenser is listed by an independent testing laboratory as compatible with E-10 gasoline, and the owner or operator visually inspects the dispenser and the dispenser sump daily for leaks and equipment failure. The owner or operator shall maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the owner or operator and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.~~

(b) ~~The dispenser’s manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with E-85 gasoline, and the owner or operator has installed an under-dispenser containment system with electronic monitoring.~~

NOTE: Option (2) will not be available after August 25, 2014. On or after August 26, 2014, E-blend will be allowed to be dispensed only from dispensers listed by independent testing laboratories for use with E-blend or E-85.

2206.7.1.1.3 B-blend may be dispensed only if (1) and either (2), (3), (4), or (5) apply:

(1) Only a dispenser listed by an independent testing laboratory as compatible with diesel fuel shall be used to dispense B-blend.

(2) The owner or operator shall visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure and maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the owner or operator and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

(3) The dispenser’s manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with B-blend, and the owner or operator has installed an under-dispenser containment system with electronic monitoring.

(4) Information published or provided by the manufacturer of the dispenser is available stating that the dispenser is compatible with B-blend.

(5) The owner or operator of the dispenser has in force insurance for environmental liability in a minimum amount of \$500,000, which would cover damage resulting from the operation of the dispenser and the owner or operator is able to produce documentation of the insurance coverage upon request from the state fire marshal or the department of natural resources.

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NOTE: If option (2), (4), or (5) is used, under-dispenser containment shall be provided if otherwise required by the rules in this chapter, rules of the department of natural resources, or any other applicable provision of law.

This subrule is intended to implement Iowa Code sections 101.1 and 455G.31.

221.4(3) No change.

221.4(4) Temporary storage in disaster emergencies. Notwithstanding any provision to the contrary found in this chapter or found in the International Fire Code or NFPA 30A as adopted by reference herein, aboveground ~~petroleum~~ flammable or combustible liquid storage tanks may be used to store flammable ~~and~~ or combustible liquids in motor fuel dispensing operations, provided that all of the following apply:

a. The facility is in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 or, if not in such an area, the facility has applied to the state fire marshal and has been approved for storage of flammable ~~and~~ or combustible liquids in compliance with this subrule.

b. The facility has suffered damage which has rendered the storage tanks normally used by the facility for flammable ~~and~~ or combustible liquids inoperable. Storage of flammable ~~and~~ or combustible liquids in compliance with this subrule shall continue only for as long as the normal storage tanks are inoperable and in no event for more than 90 days.

EXCEPTION: In extraordinary circumstances, storage of flammable ~~and~~ or combustible liquids in compliance with this subrule may continue for more than 90 days if the facility has sought and received specific written approval from the state fire marshal for such storage.

c. The facility has written confirmation from the facility's insurance provider that insurance coverage will apply while storage of flammable ~~and~~ or combustible liquids in compliance with this subrule is occurring.

d. Any aboveground ~~petroleum~~ flammable or combustible liquid storage tank used pursuant to this subrule shall be rated or listed by an independent testing laboratory for aboveground storage of flammable ~~and~~ or combustible liquids.

e. Any aboveground ~~petroleum~~ flammable or combustible liquid storage tank used pursuant to this subrule shall be of no more than 1,000 gallons capacity.

EXCEPTION EXCEPTION: A storage tank larger than 1,000 gallons capacity may be used pursuant to this subrule if the facility has received specific written approval from the state fire marshal for its use. In reviewing such a request, the state fire marshal shall consider, but is not limited to considering, the following factors:

(1) Volume of throughput of the facility.

(2) Ability to meet setback requirements appropriate to the size of the tanks used.

f. to h. No change.

i. Aboveground ~~petroleum~~ flammable or combustible liquid storage tanks used pursuant to this subrule shall be plumbed into existing dispensers, if practical. If this is impractical, all fueling at the facility shall be by attendant only; no self-service dispensing shall be allowed at the facility.

j. Any aboveground ~~petroleum~~ flammable or combustible liquid storage tank used in compliance with this subrule shall be located so as to be protected from prospective damage from vehicle collisions and shall be located with due regard to vehicular traffic patterns and the location of property lines and significant buildings, particularly those which are frequently occupied by humans.

[Filed 1/6/21, effective 3/3/21]

[Published 1/27/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/27/21.

ARC 5409C**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed****Rule making related to flammable or combustible liquid storage tanks**

The State Fire Marshal hereby amends Chapter 224, “Aboveground Petroleum Storage Tanks,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 101.23.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 101.

Purpose and Summary

The purposes of the amendments to Chapter 224 are to update the process for registration of tanks and to provide contact information for the program.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 2, 2020, as **ARC 5299C**. No public comments were received. A minor change from the Notice has been made for internal consistency.

Adoption of Rule Making

This rule making was adopted by the State Fire Marshal on January 6, 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

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(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 March 3, 2021.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend **661—Chapter 224**, title, as follows:
ABOVEGROUND ~~PETROLEUM~~ FLAMMABLE OR COMBUSTIBLE LIQUID STORAGE TANKS

ITEM 2. Amend rules 661—224.1(101) and 661—224.2(101) as follows:

661—224.1(101) Scope. These rules apply to aboveground ~~petroleum~~ flammable or combustible liquid storage tanks, as defined in Iowa Code section 101.21.

224.1(1) The aboveground flammable or combustible liquid storage tanks program is located at the following address:

State Fire Marshal Division
 Iowa Department of Public Safety
 Attn: Aboveground Storage Tank Administration
 215 East 7th Street
 Des Moines, Iowa 50319

224.1(2) The program may be contacted by electronic mail at sfmast@dps.state.ia.us or by the United States Postal Service.

224.1(3) The website for the aboveground flammable or combustible liquid storage tanks program is: dps.iowa.gov/divisions/state-fire-marshal/licensing/above-ground-storage-tanks.

661—224.2(101) Definition Definitions. ~~The following definition applies~~ definitions apply to the rules in this chapter:

“Aboveground ~~petroleum~~ flammable or combustible liquid storage tank” means one or a combination of tanks, including connecting pipes connected to the tanks which are used to contain an accumulation of ~~petroleum~~ flammable or combustible liquid and the volume of which, including the volume of the underground pipes, is more than 90 percent above the surface of the ground. Aboveground ~~petroleum~~ storage tank “Aboveground flammable or combustible liquid storage tank” does not include any of the following:

1. Aboveground tanks of 1100 gallons or less capacity.
2. Tanks used for storing heating oil for consumptive use on the premises where stored.
3. Underground storage tanks as defined by Iowa Code section 455B.471.
4. A flow-through process tank, or a tank containing a regulated substance, other than motor fuel used for transportation purposes, for use as part of a manufacturing process, system, or facility.
5. An aboveground tank that stores flammable liquids on a farm located outside the limits of a city if the aboveground tank has 2000 gallons or less capacity.
6. An aboveground tank that stores combustible liquids on a farm located outside the limits of a city if the aboveground tank has 5000 gallons or less capacity.

“Combustible liquid” means any liquid that has a closed-cup flash point greater than or equal to 100 degrees Fahrenheit.

“Commodities” means crops as defined in Iowa Code section 202.1 or animals as defined in Iowa Code section 459.102.

“Farm” means land and associated improvements used to produce agricultural commodities, if at least \$1000 is annually generated from the sale of the agricultural commodities.

“Flammable liquid” means a liquid with a closed-cup flash point below 100 degrees Fahrenheit and a Reid vapor pressure not exceeding 40 psi absolute, 2026.6 mm Hg, at 100 degrees Fahrenheit.

“Liquefied natural gas” means a fuel in the liquid state composed predominantly of methane and which may contain minor quantities of ethane, propane, nitrogen, or other components normally found in natural gas.

“Liquefied petroleum gas” means material composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal butane or isobutane), and butylenes.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

“Operator” means a person in control of, or having responsibility for, the daily operation of an aboveground flammable or combustible liquid storage tank.

“Owner” means: in the case of an aboveground flammable or combustible liquid storage tank in use on or after July 1, 1989, a person who owns the aboveground flammable or combustible liquid storage tank used for the storage, use, or dispensing of flammable or combustible liquid, or in the case of an aboveground flammable or combustible liquid storage tank in use before July 1, 1989, but no longer in use on or after that date, a person who owned the tank immediately before the discontinuation of its use.

“Petroleum” means petroleum as defined in Iowa Code section 455B.471.

ITEM 3. Amend rules 661—224.4(101) to 661—224.8(101) as follows:

661—224.4(101) Registration of existing and new tanks—fees. All existing, new, replacement and out-of-service aboveground tanks of 1101-gallon capacity or greater shall be registered with the state fire marshal. This requirement applies to aboveground tanks used to store ~~petroleum~~ flammable or combustible liquids, as defined in Iowa Code section 455B.471, which ~~includes~~ include, but are not limited to, crude oil, heating oil offered for resale, motor fuels and oils such as gasoline, diesel fuels and motor oil. Tanks which are used, or planned for use, to store blended fuels which include either gasoline or diesel are subject to this requirement.

224.4(1) Registration form. Registration forms for aboveground storage tanks may be obtained from the state fire marshal division. A completed registration form shall be submitted to the state fire marshal division, online or by mail as established in rule 661—224.1(101), by the date on which it is due and shall be accompanied by the applicable fee, including any applicable late charges.

224.4(2) Fees. The annual registration fee for each tank shall be ~~\$10~~ \$20. The fee shall cover registration for each tank for one year, which ends on October 1. If a tank is registered on or after October 1 of any year, payment of the fee shall cover registration until the following October 1.

224.4(3) Registration deadline. Each tank shall be registered annually by October 1 of each year.

EXCEPTION: A tank may be registered for the first time on any date without penalty, provided that it has not previously been in use to store ~~petroleum products~~ flammable or combustible liquids. A tank that is registered for the first time shall not be used to store ~~petroleum products~~ flammable or combustible liquid until the registration has been completed and the registration tag has been attached to the tank.

224.4(4) No change.

224.4(5) Payment. The registration fee, and any late fee if applicable, shall be submitted electronically or by draft, check, or money order in the applicable amount payable to the Iowa State Fire Marshal Division. Draft, check, or money order shall be addressed to the state fire marshal as established in subrule 224.1(1). Payment shall not be made in cash.

661—224.5(101) Approval of plans. A registration tag for a new aboveground storage tank shall not be issued prior to approval by the state fire marshal of plans for the installation of the tank and payment of the required plan review and registration fee. The state fire marshal may require inspection of the tank and payment of an inspection fee prior to use of the tank.

661—224.6(101) Inspections and orders.

224.6(1) and 224.6(2) No change.

224.6(3) Suspension of use. If any corrective action ordered pursuant to subrule 224.6(2) is not completed in the time specified in the order issued pursuant to subrule 224.6(2), the state fire marshal may order that the tank be placed out of service until the corrective action or actions have been completed. If a tank is ordered to be placed out of service pursuant to this subrule, the tank shall have a sticker prominently affixed to it which states that the tank is out of service by order of the state fire marshal and that it is a violation of law to transfer any ~~petroleum product~~ flammable or combustible liquid into the tank.

224.6(4) Emergency order. If the state fire marshal finds that a violation identified during an inspection conducted pursuant to subrule 224.6(1) creates an imminent threat to public safety or public health, or if the state fire marshal finds, after consultation with the department of natural resources, that

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such a violation creates an imminent threat of environmental damage, the state fire marshal shall order that the tank be placed out of service immediately and may order that the tank be evacuated of liquid and purged of vapors. If a tank is ordered to be placed out of service pursuant to this subrule, the tank shall have a sticker prominently affixed to it which states that the tank is out of service by order of the state fire marshal and that it is a violation of law to transfer any ~~petroleum product~~ flammable or combustible liquid into the tank.

224.6(5) Notice. Notice of any order issued pursuant to this rule shall be given to the owner or operator of a tank subject to the order. Notice of an emergency order issued pursuant to subrule 224.6(4) shall be given by personal service. Notice of any other order issued pursuant to this rule may be given by regular mail, electronic mail, or personal service.

EXCEPTION: If the owner of a tank subject to an order issued pursuant to this rule is unknown or cannot be located, notice shall be considered to have been given if the notice is served personally to any person at the location of the tank or, if no person is present, by affixing the notice to the tank. Alternatively, notice may be given by mailing the notice to the address at which the tank is located, with a return receipt requested. Notification from the United States Postal Service that delivery was attempted unsuccessfully or that delivery was refused shall serve as proof that notice was given.

661—224.7(101) Leaks, spills, or damage. Any leak from, spill from, or damage to a storage tank shall be reported to the local fire department and, if required by law, to the department of natural resources. If a tank is leaking or has been damaged, it shall be placed out of service until the leak has been repaired. A sign shall be placed prominently on the tank stating that the tank is out of service and that no ~~petroleum product~~ flammable or combustible liquid shall be placed into the tank until required repairs have been completed.

661—224.8(101) Civil penalty. The state fire marshal may impose a civil penalty upon the owner of a storage tank for any of the following:

1. Failure to register a storage tank currently being used to store a ~~petroleum product~~ flammable or combustible liquid if the registration is more than 30 days late.

2. Allowing any ~~petroleum product~~ flammable or combustible liquid to be placed into a tank which has been ordered to be placed out of service and for which the order has not been rescinded or allowing any ~~petroleum product~~ flammable or combustible liquid to be placed into any tank which has been damaged or is leaking, if the damage or leak has not been repaired.

A civil penalty issued pursuant to this rule and to Iowa Code section 101.26 shall not exceed \$100 for each day during which the violation occurs or \$1000 in total.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/27/21.

PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR ELECTRONIC FORMAT DUE TO COVID-19

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a Notice of Intended Action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 113 of the Governor's proclamation of disaster emergency issued January 7, 2021: governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202021.01.07.pdf.