



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

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

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

## Schedule for Rule Making 2020

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
<b>**Dec. 26 '19**</b>	Jan. 15 '20	Feb. 4 '20	Feb. 19 '20	Feb. 21 '20	Mar. 11 '20	Apr. 15 '20	July 13 '20
<b>**Jan. 8**</b>	Jan. 29	Feb. 18	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27
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Feb. 7	Feb. 26	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24
Feb. 21	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sep. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sep. 21
Mar. 20	Apr. 8	Apr. 28	May 13	<b>**May 13**</b>	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	<b>**June 24**</b>	July 15	Aug. 19	Nov. 16
<b>**May 13**</b>	June 3	June 23	July 8	July 10	July 29	Sep. 2	Nov. 30
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June 12	July 1	July 21	Aug. 5	Aug. 7	Aug. 26	Sep. 30	Dec. 28
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July 10	July 29	Aug. 18	Sep. 2	Sep. 4	Sep. 23	Oct. 28	Jan. 25 '21
July 24	Aug. 12	Sep. 1	Sep. 16	Sep. 18	Oct. 7	Nov. 11	Feb. 8 '21
Aug. 7	Aug. 26	Sep. 15	Sep. 30	Oct. 2	Oct. 21	Nov. 25	Feb. 22 '21
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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
18	Friday, February 7, 2020	February 26, 2020
19	Friday, February 21, 2020	March 11, 2020
20	Friday, March 6, 2020	March 25, 2020

**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 7, 2020, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

### **AGING, DEPARTMENT ON[17]**

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Complaint and appeal procedures—inclusion of senior community service employment program (SCSEP) subgrantees, 2.9 <u>Filed</u> <b>ARC 4875C</b> .....	1/15/20
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Managed care ombudsman program, amendments to ch 8 <u>Filed</u> <b>ARC 4878C</b> .....	1/15/20
Older American community service employment program, rescind ch 10 <u>Filed</u> <b>ARC 4879C</b> .....	1/15/20
Office of substitute decision maker—change of name to office of public guardian, services provided, amendments to ch 22 <u>Filed</u> <b>ARC 4880C</b> .....	1/15/20
Aging and disability resource center, ch 23 <u>Filed</u> <b>ARC 4881C</b> .....	1/15/20

### **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Disease control—animals at exhibitions, 64.34 <u>Filed</u> <b>ARC 4885C</b> .....	1/29/20
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Teaching endorsements, 13.28 <u>Notice</u> <b>ARC 4870C</b> .....	1/15/20
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### **EGG COUNCIL, IOWA[301]**

Nomination petitions; rule updates, amendments to chs 1 to 5 <u>Filed</u> <b>ARC 4886C</b> .....	1/29/20
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### **HUMAN SERVICES DEPARTMENT[441]**

In-home health-related care, 177.4, 177.5(2), 177.6(3), 177.9(3), 177.11 <u>Notice</u> <b>ARC 4888C</b> .....	1/29/20
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Unlawfully passing a school bus—penalty for first offense, 615.17(2)"d"(1), 615.43(1)"a"(4)

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## 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.

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Senator Mark Costello  
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Imogene, Iowa 51645

Senator Robert Hogg  
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Telephone: (515)281-5211

**EDUCATIONAL EXAMINERS BOARD[282]**

Teaching endorsements, 13.28 IAB 1/15/20 ARC 4870C	Board Room, Suite A 701 E. Court Ave. Des Moines, Iowa	February 5, 2020 1 p.m.
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**LABOR SERVICES DIVISION[875]**

Federal occupational safety and health standards for general industry—adoption by reference, 10.20 IAB 1/29/20 ARC 4882C	150 Des Moines St. Des Moines, Iowa	February 19, 2020 9 a.m. (If requested)
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Boiler and pressure vessel codes—adoption by reference, 90.6(1), 91.1 IAB 1/15/20 ARC 4863C	150 Des Moines St. Des Moines, Iowa	February 5, 2020 9 a.m. (If requested)
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**NATURAL RESOURCE COMMISSION[571]**

Safety zone on Beaver Creek for watercraft and vehicles, 40.61 IAB 1/15/20 ARC 4855C	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	February 4, 2020 2:30 to 3:30 p.m.
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**NATURAL RESOURCES DEPARTMENT[561]**

Process and timeline for appeals of administrative orders issued by the department, 7.4(1), 7.17(5)“a”(2) IAB 1/15/20 ARC 4861C	Conference Room 4E Wallace State Office Bldg Des Moines, Iowa	February 5, 2020 1 to 2 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

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Optometrists—child abuse and dependent adult abuse mandatory reporter training, 180.5(4), 181.3(2) IAB 1/15/20 ARC 4854C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	February 4, 2020 10 to 10:30 a.m.
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Podiatrists—mandatory child abuse and dependent adult abuse identification and reporting training, 220.9(4) IAB 1/29/20 ARC 4883C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	February 18, 2020 8 to 8:30 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Outdoor advertising, amendments to ch 117 IAB 1/15/20 <b>ARC 4868C</b>	DOT Administration Bldg. First Floor, South Conference Room 800 Lincoln Way Ames, Iowa	February 6, 2020 2 p.m. (If requested)
Annual raw forest products permit, amendments to ch 511 IAB 1/15/20 <b>ARC 4869C</b>	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	February 6, 2020 10 a.m. (If requested)
Unlawfully passing a school bus—penalty for first offense, 615.17(2)“d”(1), 615.43(1)“a”(4) IAB 1/29/20 <b>ARC 4884C</b>	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	February 20, 2020 10 a.m. (If requested)

**UTILITIES DIVISION[199]**

Ratemaking principles proceeding, ch 41 IAB 1/15/20 <b>ARC 4865C</b>	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	March 12, 2020 9 to 11 a.m.
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The following list will be updated as changes occur.

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

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

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

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VETERINARY MEDICINE BOARD[811]  
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VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
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**ARC 4888C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to coordination of services and reviews  
and providing an opportunity for public comment**

The Department of Human Services hereby proposes to amend Chapter 177, “In-Home Health Related Care,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 234.6.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 234.6.

*Purpose and Summary*

The proposed amendments add provisions for coordination of services to avoid duplication. The amendments also add clarification on when reviews need to be completed and when services may be terminated. These amendments remove form names and numbers.

*Fiscal Impact*

These proposed amendments may reduce state supplementary assistance payments through coordination of services provided to the client. However, in-home health-related care (IHHRC) expenditures have been declining since FY 2017, and the Department does not expect this rule provision to fundamentally change the overall cost trend.

*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 441—1.8(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 18, 2020. 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](mailto:appeals@dhs.state.ia.us)

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*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 177.4(1) as follows:

**177.4(1) Eligible individual.**

a. No change.

b. The physician’s certification shall include a statement of the specific health care services and that the services can be provided in the individual’s own home. The certification shall be given on ~~Form 470-0673, Physician’s Report~~, a form prescribed by the department or on a similar plan of care form presently used by public health agencies.

c. and d. No change.

ITEM 2. Amend subrule 177.4(2) as follows:

**177.4(2) Relationship to other programs.** In-home ~~health-related~~ health-related care shall be provided only when other ~~existing~~ programs cannot meet the client’s need. There shall be no duplication of services.

ITEM 3. Amend subrule 177.4(4) as follows:

**177.4(4) Service plan.** A complete service plan shall be prepared which includes the services needed, the plan for providing these services, and the health care plan defined in rule ~~441—~~177.6(249). The service plan shall be developed following consultation between the client’s service worker and case manager to avoid all duplication of services. Consultation shall include current services provided to the client, payer sources, level of service needs, and service history.

ITEM 4. Amend subrule 177.4(10) as follows:

**177.4(10) Application.** Application for in-home ~~health-related~~ health-related care shall be made on ~~Form 470-2927 or 470-2927(S), Health Services Application~~ a form prescribed by the department. An eligibility determination shall be completed within 30 days from the date of the application, unless one or more of the following conditions exist:

a. An application has been filed and is pending for federal supplemental security income benefits.

b. The application is pending because the department has not received information, which is beyond the control of the client or the department.

c. The application is pending due to the disability determination process performed through the department.

d. The application is pending because ~~Form 470-0636, Provider Agreement~~, the provider agreement has not been completed and completion is beyond control of the client. When ~~Form 470-0636~~ the provider agreement cannot be completed due to the client’s failure to locate a provider, applications shall not be held pending beyond 60 days from the date of application.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 5. Amend subrule 177.5(2) as follows:

**177.5(2) Health assessment.** The provider shall obtain certification that the provider is physically and emotionally capable of providing assistance to another person who may have physical and emotional limitations.

*a.* The certification shall be based on an examination performed by a physician or advanced registered nurse practitioner or by a physician assistant who is working under the direction of a physician. If the provider works for an agency, the practitioner performing the examination may not be employed by the same agency.

*b.* The practitioner conducting the examination shall indicate the certification by signing ~~Form 470-0672, Provider Health Assessment~~ the provider health assessment.

*c.* The certification shall be submitted to the department service worker:

- (1) Before the provider agreement is signed, and
- (2) Annually thereafter.

ITEM 6. Amend subrule 177.6(3) as follows:

**177.6(3) Review.** The continuing need for in-home health care services shall be reviewed:

*a.* At a minimum of every 60 days by the physician, including a written recertification of continuing appropriateness of the plan;

*b.* At a minimum of every six months by the service worker, including a review of the total care plan and consultation with the client's case manager to consider any change in the client's payer sources, level of service needs, current services provided, and service history;

*c.* At a minimum of every 60 days by the nurse who shall review the nursing plan; ~~or~~

*d.* More frequently if required by the physician, the service worker, or the nurse; or

*e.* Upon notification of initiation of waiver services.

ITEM 7. Amend subrule 177.9(3) as follows:

**177.9(3) Provider agreement.** The client and the provider shall enter into an agreement, using ~~Form 470-0636, Provider Agreement~~ the provider agreement form, prior to the provision of service. Any reduction to the state supplemental assistance program shall be applied to the maximum amount paid by the department of human services as stated in the ~~Provider Agreement~~ provider agreement by using ~~Form 470-1999, Amendment~~ the separate amendment to Provider Agreement provider agreement form.

ITEM 8. Amend rule 441—177.11(249) as follows:

**441—177.11(249) Termination.** Termination of in-home ~~health-related~~ health-related care shall occur under the following conditions:

**177.11(1) Request.** Upon the request of the client or legal representative.

**177.11(2) Care unnecessary.** When the client becomes sufficiently self-sustaining to remain in the client's own home with services that can be provided by existing community agencies as determined by the service worker.

**177.11(3) Additional care necessary.** When the physical or mental condition of the client requires more care than can be provided in the client's own home as determined by the service worker.

**177.11(4) Excessive costs.** When the cost of care exceeds the maximum established in 177.4(3).

**177.11(5) Other services utilized.** When the service worker determines that other services can be utilized to better meet the client's needs.

**177.11(6) Terms of provider agreement not met.** When it has been determined by the service worker that the terms of the provider agreement have not been met by the client or the provider, the state supplementary assistance payment may be terminated.

**177.11(7) Qualified health care services absent.** Qualified health care services are health care services supervised by a registered nurse and approved by a physician. When a registered nurse is not available to supervise the in-home service and health care plan, or when a physician or nurse practitioner is not available to review or approve the health care plan, the state supplementary assistance payment shall be terminated.

**ARC 4889C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to aftercare amounts  
and providing an opportunity for public comment**

The Department of Human Services hereby proposes to amend Chapter 187, “Aftercare Services Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 234.46.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 234.46.

*Purpose and Summary*

When Chapter 187 was recently amended, the new language was unclear. The Department believes there was an oversight when changes were made, and the result was that some participants may receive less financial support than was intended. This proposed amendment corrects that error by clarifying that youth who previously received aftercare services may receive up to \$300 per quarter in postservices funds, which was the intent of the original amendment. This is the amount available to each youth per the aftercare contract.

*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 441—1.8(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 18, 2020. 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](mailto:appeals@dhs.state.ia.us)

HUMAN SERVICES DEPARTMENT[441](cont'd)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend subrule 187.3(7) as follows:

**187.3(7) Postservices allowance.** Youth 21 or 22 years of age who previously received aftercare services may receive postservices funds if they meet all of the following criteria:

- a. The youth is participating in postservices as described in subrule 187.3(3).
- b. A budget discussion has been completed timely by the youth with a self-sufficiency advocate.
- c. The need has been identified in the individual self-sufficiency plan.
- d. The postservices funds approved for the youth have not exceeded ~~\$600 for the previous 12-month period~~ \$300 for a three-month period calculated from the date of initiation of postservices.

**ARC 4890C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Proposing rule making related to dependent adult abuse  
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 52, “Dependent Adult Abuse in Facilities and Programs,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 235E.5.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 235E.2 as amended by 2019 Iowa Acts, House File 304, and Iowa Code section 235E.5.

*Purpose and Summary*

The proposed amendment implements changes made to Iowa Code chapter 235E resulting from 2019 Iowa Acts, House File 304, which added a citation to reference “personal degradation” as defined in Iowa Code section 235E.1(5)“a”(3) to the list of dependent adult abuse required to be reported that shall be collected and maintained by the Department of Human Services as an assessment only for a five-year period and shall not be included in the central registry or considered to be founded dependent adult abuse if determined by the Department of Inspections and Appeals to be minor, isolated, and unlikely to reoccur.



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

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 18, 2020. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections and Appeals  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend subrule 52.3(3) as follows:

**52.3(3) Reports of abuse that is minor, isolated, and unlikely to reoccur.**

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

*b. Minor, isolated, and unlikely to reoccur—subsequent instance(s).* A subsequent report of dependent adult abuse that meets the definition of “dependent adult abuse” as defined in Iowa Code section 235E.1(5)“a”(1)(a) or (d), or section 235E.1(5)“a”(3), that occurs within the five-year period, and that is committed by the same caretaker may also be considered minor, isolated, and unlikely to reoccur, depending on the totality of circumstances.

*c. No change.*

**ARC 4882C****LABOR SERVICES DIVISION[875]****Notice of Intended Action****Proposing rule making related to general industry safety and health rules  
and providing an opportunity for public comment**

The Labor Commissioner hereby proposes to amend Chapter 10, “General Industry Safety and Health Rules,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 88.5.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 88.

*Purpose and Summary*

This proposed amendment adopts by reference changes to the federal occupational safety and health standards for general industry. The federal changes include corrections to fix errors in the standards for ladders, stairways, scaffolds and rope descent systems, and fall protection. The U.S. Occupational Safety and Health Administration was able to adopt these changes using expedited procedures for typographical and clerical errors.

The changes also modify the respiratory protection standard by adopting two additional quantitative fit testing protocols. The additional protocols will reduce compliance burdens and increase flexibility without endangering employee health. While the new protocols are set forth in the general industry standards, they also apply to the construction industry.

*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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

*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 Commissioner no later than 4:30 p.m. on February 19, 2020. Comments should be directed to:

Kathleen Uehling  
Division of Labor Services  
150 Des Moines Street  
Des Moines, Iowa 50309  
Email: [kathleen.uehling@iwd.iowa.gov](mailto:kathleen.uehling@iwd.iowa.gov)

LABOR SERVICES DIVISION[875](cont'd)

*Public Hearing*

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

February 19, 2020  
9 a.m.

150 Des Moines Street  
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 Commissioner 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:

Amend rule **875—10.20(88)** by inserting the following at the end thereof:  
84 Fed. Reg. 50755 (September 26, 2019)  
84 Fed. Reg. 68795 (December 17, 2019)

**ARC 4883C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rule making related to child abuse and dependent adult abuse identification and reporting training and providing an opportunity for public comment**

The Board of Podiatry hereby proposes to amend Chapter 220, "Licensure of Podiatrists," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 272C.2, 232.69(3)"e" and 235B.16(5)"f."

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 232.69 and 235B.16.

*Purpose and Summary*

2019 Iowa Acts, House File 731, amended Iowa Code sections 232.69 and 235B.16, which govern mandatory training in child and dependent adult abuse identification and reporting for certain professionals. This proposed rule making amends the Board's requirements for mandatory training in child and dependent adult abuse identification and reporting to reflect the statutory changes and requires that podiatrists who must report child or dependent adult abuse comply with the requirements for training every three years, as provided in the amended Iowa Code sections 232.69 and 235B.16.

## PROFESSIONAL LICENSURE DIVISION[645](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*

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

*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 March 20, 2020. Comments should be directed to:

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

*Public Hearing*

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

February 18, 2020  
8 to 8:30 a.m.

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

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

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

Amend subrule 220.9(4) as follows:

**220.9(4)** Mandatory reporter training requirements.

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

*a.* A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of ~~two hours of~~ training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph "~~e.~~" 220.9(4) "e."

*b.* A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of ~~two hours of~~ training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph "~~e.~~" 220.9(4) "e."

~~*c.* A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."~~

~~Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course course(s) shall be a the curriculum approved provided by the Iowa department of public health abuse education review panel human services.~~

*d.* The licensee shall maintain written documentation for ~~five~~ three years after mandatory training as identified in paragraphs "~~a~~" 220.9(4) "a" to "~~c~~," including program date(s), content, duration, and proof of participation.

*e.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

- (1) Is engaged in active duty in the military service of this state or the United States.
- (2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in ~~645—Chapter 4 rule 645—4.14(272C).~~

*f.* The board may select licensees for audit of compliance with the requirements in paragraphs "~~a~~" 220.9(4) "a" to "~~e~~."

**ARC 4884C**

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Proposing rule making related to driver improvement program  
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 615, "Sanctions," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.210 and 2012 Iowa Acts, Senate File 2218, section 5.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 321.210 and 321.372(3).

*Purpose and Summary*

This proposed rule making amends Chapter 615 to allow a person convicted of a first offense for unlawfully passing a school bus under Iowa Code section 321.372(3) to be eligible for the driver

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

improvement program, established in rule 761—615.43(321), in lieu of a driver's license suspension. Currently, a person who is convicted of a first-time offense for unlawfully passing a school bus faces a 30-day driver's license suspension.

Since the rule establishing license suspension was adopted, it has been reported to the Department that there is difficulty in charging and convicting a person of this offense because of the accompanying driver's license suspension penalty and associated requirement that the person hold SR-22 insurance for two years following the suspension. The Department believes that allowing a person convicted of a first-time offense for unlawfully passing a school bus to attend the driver improvement program in lieu of a driver's license suspension will address some of the difficulties with achieving convictions for this offense by offering a consequence that is more in line with other first-time traffic violation convictions. Also, allowing a person with a first-time offense to take a driver improvement course in lieu of license suspension promotes rehabilitating driver behavior, rather than simply punishing drivers or pushing drivers out of the driver system. A driver who attends a driver improvement course would still be subject to a probationary driving period and would be subject to a driver's license sanction if the driver commits a violation during the probationary period. Furthermore, a driver who fails to attend or successfully complete the driver improvement course would be subject to a driver's license suspension.

The driver improvement program is a course offered at community colleges throughout the state on a regular basis. The course is eight hours long with evening and weekend options available. The purpose of the course is to examine attitudes and behaviors in relation to driving, to focus on teaching drivers how behind-the-wheel attitudes affect driving behavior, and to give participants the opportunity to reflect on driving behavior and make a commitment to positively alter the participant's daily driving experience.

*Fiscal Impact*

In state fiscal year 2019, the Department issued 492 driver's license suspensions for a first-time offense of unlawfully passing a school bus. Each time the Department suspends a person's driver's license for this type of conviction, the Department is required to assess a \$200 civil penalty under Iowa Code section 321.218A. Furthermore, each time a person reinstates the person's driver's license after a suspension, the Department is required to assess a \$20 reinstatement fee under Iowa Code section 321.191. Accordingly, if 492 persons a year attended the driver improvement course in lieu of having the person's driver's license suspended, that would result in \$98,400 less going to the juvenile detention home fund annually ( $\$200 \times 492 = \$98,400$ ) and \$9,840 less going to the statutory allocations fund annually ( $\$20 \times 492 = \$9,840$ ).

*Jobs Impact*

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

*Waivers*

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 18, 2020. Comments should be directed to:

TRANSPORTATION DEPARTMENT[761](cont'd)

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

February 20, 2020
10 a.m.

Department of Transportation
Motor Vehicle Division
6310 SE Convenience Boulevard
Ankeny, 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 Tracy George, the Department's rules administrator, and advise of specific needs.

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph 615.17(2)"d"(1) as follows:

(1) 30 days for a first conviction unless otherwise provided in subparagraph 615.43(1)"a"(4).

ITEM 2. Adopt the following new subparagraph 615.43(1)"a"(4):

(4) A person who is convicted of a first offense violation of Iowa Code section 321.372(3) or a similar ordinance of any political subdivision.

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 3.75%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

Table with 2 columns: Description and Maximum Rate. Rows include 74A.2 Unpaid Warrants (Maximum 6.0%) and 74A.4 Special Assessments (Maximum 9.0%).

TREASURER OF STATE(cont'd)

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 10, 2020, 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 .30%
180-364 days	.....	Minimum .45%
One year to 397 days	.....	Minimum .55%
More than 397 days	.....	Minimum .70%

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.

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, 2019 — February 28, 2019	4.75%
March 1, 2019 — March 31, 2019	4.75%
April 1, 2019 — April 30, 2019	4.75%
May 1, 2019 — May 31, 2019	4.50%
June 1, 2019 — June 30, 2019	4.50%
July 1, 2019 — July 31, 2019	4.50%
August 1, 2019 — August 31, 2019	4.00%
September 1, 2019 — September 30, 2019	4.00%
October 1, 2019 — October 31, 2019	3.75%
November 1, 2019 — November 30, 2019	3.75%
December 1, 2019 — December 31, 2019	3.75%
January 1, 2020 — January 31, 2020	3.75%
February 1, 2020 — February 29, 2020	3.50%



**ARC 4885C**

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

**Adopted and Filed**

**Rule making related to exhibition of livestock**

The Agriculture and Land Stewardship Department hereby amends Chapter 64, “Infectious and Contagious Diseases,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 163.1.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 163.

*Purpose and Summary*

The amendments clarify and describe rules for inspecting animals at exhibitions in order to control the spread of infectious or contagious disease affecting animals within the state.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 4, 2019, as **ARC 4784C**. A public hearing was held on December 30, 2019, at 11 a.m. in the second floor conference room of the Wallace State Office Building, Des Moines, Iowa.

The Department received one comment during the comment period from the Iowa Pork Producers Association (IPPA). IPPA supported the rule making with no requested changes.

No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on January 8, 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*

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 21—Chapter 8.

*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).

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

*Effective Date*

This rule making will become effective on March 4, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 64.34(1) as follows:

**64.34(1) *General requirements.*** All animals, poultry and birds intended for any exhibition will be considered under quarantine and not eligible for showing until the owner or agent presents an official Certificate of Veterinary Inspection. ~~The certificate~~ Unless otherwise indicated herein, the Certificate of Veterinary Inspection must be issued by an accredited veterinarian within 30 days (14 days for sheep and 7 days for swine) prior to the date of entry; and must indicate that the veterinarian has inspected the animals, poultry or birds and any nurse stock that accompany them, and that they are apparently free from symptoms of any infectious disease (including warts, ringworm, footrot, draining abscesses and pinkeye) or any communicable disease. Individual Certificates of Veterinary Inspection will not be required in certain classes, if the division superintendent for the exhibition has made prior arrangements with the official fair veterinarian and state veterinarian to have all animals and birds inspected on arrival.

ITEM 2. Amend subrule 64.34(2) as follows:

**64.34(2) *Breeding-cattle Cattle.***

*a. Individual identification and certificate.* All cattle intended for exhibition shall have individual official identification and be accompanied by a Certificate of Veterinary Inspection.

~~*a. b. Tuberculosis.*~~ Cattle originating from a USDA accredited-free state or zone may be exhibited without other testing requirements when accompanied by a Certificate of Veterinary Inspection that lists individual official identification. Cattle from a herd or area under quarantine for tuberculosis may not be exhibited. Cattle from a state or zone which is not a USDA accredited-free state or zone must meet the following requirements:

- (1) Have had an individual animal test conducted within 60 days of the exhibition; or
- (2) Originate from a tuberculosis accredited-free herd, with the accredited herd number and date of last test listed on the Certificate of Veterinary Inspection; and
- (3) Have been issued a preentry permit from the state veterinarian's office.

~~*b. c. Brucellosis.*~~

(1) Native Iowa cattle originating from a herd not under quarantine may be exhibited when accompanied by a Certificate of Veterinary Inspection that lists individual official identification.

(2) Cattle originating outside the state must meet one of the following requirements:

1. Originate from brucellosis class "free" states, accompanied by a Certificate of Veterinary Inspection that lists individual official identification; or

2. Be beef heifers under 24 months of age and dairy heifers under 20 months of age which are official brucellosis vaccinates, accompanied by a Certificate of Veterinary Inspection that lists the official calfhood vaccination tattoo and individual official identification; or

3. Be animals of any age that originate from a herd not under quarantine, accompanied by a Certificate of Veterinary Inspection that lists a report of a negative brucellosis test conducted within 30 days prior to opening date of exhibition and individual official identification; or

4. Originate from a certified brucellosis-free herd, accompanied by a Certificate of Veterinary Inspection that lists individual official identification, herd number, and date of last test; or

5. Be calves under six months of age, accompanied by a Certificate of Veterinary Inspection that lists individual official identification.

(3) All brucellosis tests must have been confirmed by a state-federal laboratory. All nurse cows which accompany calves to be exhibited must meet the health requirements set forth in ~~64.34(2)"b."~~ 64.34(2)"c."

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

(4) All cattle originating from states not classified as “free” for brucellosis must have been issued a preentry permit from the state veterinarian’s office.

ITEM 3. Amend subrule 64.34(4), introductory paragraph, as follows:

~~64.34(4) Swine. All swine must shall originate from a herd or area not under quarantine and must be individually identified on. All swine shall have official identification and be accompanied by a Certificate of Veterinary Inspection. Plastic tags issued by 4-H officials may be substituted for an official metal test tag, when an additional identification (ear notch) is also recorded on the test chart and Certificate of Veterinary Inspection. The Certificate of Veterinary Inspection shall indicate that a licensed and accredited veterinarian has inspected the swine and that the swine appear free from symptoms of any infectious or communicable disease. An initial inspection shall have occurred within seven days prior to the date of entry into the exhibition site. All swine shall be inspected again upon arrival at the exhibition site and before the swine are unloaded or leave a designated and isolated inspection area. Biosecurity and sanitary practices shall be implemented for all inspections. All identification is to be recorded on the pseudorabies test chart and the Certificate of Veterinary Inspection.~~

[Filed 1/8/20, effective 3/4/20]

[Published 1/29/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/29/20.

**ARC 4886C**

## **EGG COUNCIL, IOWA[301]**

**Adopted and Filed**

### **Rule making related to nomination petitions and technical updates**

The Iowa Egg Council hereby amends Chapter 1, “Organization and Purpose,” Chapter 2, “Rules of Practice,” Chapter 3, “Election of Members,” Chapter 4, “Assessment on Eggs,” and Chapter 5, “Public Records and Fair Information Practices,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 184.10(3).

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 184.

#### *Purpose and Summary*

The amendments reduce the number of producers required to sign a nomination petition for nominees to the Council’s board from 20 to 3. The Council’s address is updated, and a number of technical changes are made.

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

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 4, 2019, as **ARC 4783C**. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Council on January 8, 2020.

EGG COUNCIL, IOWA[301](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*

The administrative rules for the Council do not contain a waiver provision.

*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 4, 2020.

The following rule-making actions are adopted:

ITEM 1. Strike "196A" wherever it appears in the parenthetical implementation statutes of rules **301—1.1(196A)** to **301—1.5(196A)** and insert "184" in lieu thereof.

ITEM 2. Amend rule 301—1.1(196A), introductory paragraph, as follows:

**301—1.1(196A) Iowa egg council composition.** The Iowa egg council consists of seven members. Each council member must be a natural person who is a producer or an officer, equity owner, or employee of a producer. Two persons shall represent large producers, two persons shall represent medium producers, and three persons shall represent small producers. These members are elected according to 301—Chapter 3. The council is responsible for promoting market development for eggs, advancing public relations for the egg industry, and administering the assessment on eggs produced in Iowa imposed in Iowa Code chapter ~~196A~~ 184.

ITEM 3. Amend rule **301—1.5(196A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 17A.3 and ~~1995 Iowa Acts, House File 179~~ chapter 184.

ITEM 4. Strike "196A" wherever it appears in the parenthetical implementation statutes of **301—Chapter 2** and insert "184" in lieu thereof.

ITEM 5. Amend rules 301—2.1(196A) and 301—2.2(196A) as follows:

**301—2.1(196A) Definitions.** All words and terms defined in Iowa Code section ~~196A.1~~ 184.1 employed in these rules are given the definitions found in that chapter. The following words and terms used in these rules shall have the meaning hereafter ascribed to them:

"*Eligible voter*" means every producer who owns, or contracts for the care of, 30,000 or more layer-type chickens raised in this state.

This rule is intended to implement Iowa Code section ~~196A.12~~ 184.10.

**301—2.2(196A) Public information.** The public is invited to obtain information or make informal requests of the council by addressing these matters, either orally or in writing, to the executive director

EGG COUNCIL, IOWA[301](cont'd)

of the Iowa Egg Council, ~~535 East Lincoln Way, Ames, Iowa 50010~~ 8515 Douglas Avenue, Suite 9, Urbandale, Iowa 50322.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 6. Amend subrule 2.4(2) as follows:

**2.4(2)** The petition shall be filed at the office of the council at ~~535 East Lincoln Way, Ames, Iowa 50010~~ 8515 Douglas Avenue, Suite 9, Urbandale, Iowa 50322.

ITEM 7. Amend rule 301—2.5(196A), introductory paragraph, as follows:

**301—2.5(196A) Petition for adoption of rules.** An interested person may file with the council a written request that the council adopt, amend, or repeal a rule. The petition shall be addressed to the Iowa Egg Council, ~~535 East Lincoln Way, Ames, Iowa 50010~~ 8515 Douglas Avenue, Suite 9, Urbandale, Iowa 50322, and shall include:

ITEM 8. Strike “196A” wherever it appears in the parenthetical implementation statutes of **301—Chapter 3** and insert “184” in lieu thereof.

ITEM 9. Amend subrule 3.1(6) as follows:

**3.1(6)** All eligible nominees nominated by valid petition signed by ~~20~~ three producers shall be included on the ballot and shall be eligible for election to the council.

ITEM 10. Amend rule **301—3.1(196A)**, implementation sentence, as follows:

This rule is intended to implement ~~1995 Iowa Acts, House File 179, section 9~~ Iowa Code section 184.8.

ITEM 11. Amend subrule 3.2(2) as follows:

**3.2(2)** In addition to the mailed notice provided for above, the council shall cause to be published ~~in a newspaper of general circulation in the state of Iowa, on the Iowa egg council website and in the producer newsletter~~ a notice of election and form of ballot ~~as the same appear in Exhibit 5, set out at the end of these rules and made a part hereof by reference.~~ This published notice shall appear not less than 10 nor more than 20 days prior to the date of election, not counting the election day itself.

ITEM 12. Amend rule **301—3.2(196A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~196A.12 and 1995 Iowa Acts, House File 179, section 9~~ 184.8.

ITEM 13. Strike “196A” wherever it appears in the parenthetical implementation statutes of **301—Chapter 4** and insert “184” in lieu thereof.

ITEM 14. Amend rule 301—4.1(196A) as follows:

**301—4.1(196A) Rate of assessment.** The assessment on egg sales authorized by Iowa Code section ~~196A.15 as amended by 1995 Iowa Acts, House File 179, 184.3~~ and established by referendum as specified in Iowa Code section ~~196A.4~~ 184.2 is set by the council at not more than five cents for each 30 dozen eggs (one case) sold by a producer.

This rule is intended to implement Iowa Code section ~~196A.15 as amended by 1995 Iowa Acts, House File 179~~ 184.3.

ITEM 15. Amend subrule 4.2(3) as follows:

**4.2(3)** Except as provided above, egg processors who have purchased eggs from producers during any calendar quarter must remit to the Iowa egg council all assessments collected during that quarter not later than 30 days after each calendar quarter. All other persons who collect the assessment but who are not referred to in Iowa Code section ~~196A.15 as amended by 1995 Iowa Acts, House File 179, 184.3~~ must also forward to the council the amount assessed, not later than 30 days after each calendar quarter.

ITEM 16. Amend subrule 4.2(6), introductory paragraph, as follows:

**4.2(6)** An assessment is considered “remitted” within the meaning of Iowa Code section ~~196A.17~~ 184.13:

EGG COUNCIL, IOWA[301](cont'd)

ITEM 17. Amend rule **301—4.2(196A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~196A.15 as amended by 1995 Iowa Acts, House File 179, and section 196A.17~~ 184.3.

ITEM 18. Amend rule **301—4.3(196A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~196A.15 as amended by 1995 Iowa Acts, House File 179~~ 184.3.

ITEM 19. Amend **301—Chapter 4**, Exhibit 1, as follows:

**EXHIBIT 1. NOTICE OF ELECTION OF IOWA EGG COUNCIL**

TO: All Iowa Egg Producers

This is to notify all Iowa egg producers eligible to vote for representatives to the Iowa Egg Council, pursuant to Iowa Code chapter ~~196A~~ 184, that the election for members of the Council will be held on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. The following vacancies will be filled in this election: one Egg Producer Representative for large producers, one Egg Producer Representative for medium producers, one Egg Producer Representative for small producers.

The following nominations have been made by the Iowa Egg Council Nominating Committee. Egg Producer Representative for large egg producers: Egg Producer Jones and Egg Producer Smith. Egg Producer Representative for medium egg producers: Egg Producer Smith and Egg Producer Jones. Egg Producer Representative for small egg producers: Egg Producer Jones and Egg Producer Smith.

The Iowa Egg Council will ~~mail~~ send ballots to each eligible voter appearing on the council records by the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. Additional ballots can be furnished upon request from the Iowa Egg Council, ~~P.O. Box 408, Ames, Iowa 50010-0408~~.

In order to be counted, ballots must be ~~mailed to~~ received by the Iowa Egg Council at ~~P.O. Box 408, Ames, Iowa 50010-0408~~, with a postmark no later than the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. ~~Ballots may be delivered to 535 East Lincoln Way, Ames, Iowa 50010-0408, no later than 5 p.m. on the~~ \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Executive Director  
Iowa Egg Council  
~~535 East Lincoln Way~~  
Ames, Iowa 50010

ITEM 20. Amend **301—Chapter 4**, Exhibit 2, as follows:

**EXHIBIT 2. NOMINATING PETITION**

\_\_\_\_\_  
Date Submitted

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name and Address of Nominee

EGG COUNCIL, IOWA[301](cont'd)

Number of layer-type chickens raised in Iowa

The undersigned, being egg producers in the state of Iowa, hereby nominate the above named person to be an Iowa Egg Council Egg Producer Candidate representing medium egg production. We certify that the nominee is willing to serve if elected.

	Name	Address
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____
12.	_____	_____
13.	_____	_____
14.	_____	_____
15.	_____	_____
16.	_____	_____
17.	_____	_____
18.	_____	_____
19.	_____	_____
20.	_____	_____

INSTRUCTIONS FOR PETITIONERS

All blank items must be legibly completed.

Show nominee's name as it is to be shown on the ballot.

The nominee must be:

Eligible to vote in the election.

A producer with layer-type chickens raised in Iowa within the classification (small, medium, or large) which represents the vacancy on the council.

Eligible to hold an office.

Willing to serve if elected.

The petition must be:

Signed by at least 20 three eligible Iowa Egg Council voters.

Delivered to the Iowa Egg Council office not later than \_\_\_\_\_.

ITEM 21. Amend 301—Chapter 4, Exhibit 3, as follows:

EXHIBIT 3. ELECTION NOTIFICATION LETTER

Iowa Egg Council  
535 East Lincoln Way 8515 Douglas Avenue, Suite 9  
Ames, Iowa 50010-0408 Urbandale, Iowa 50322

EGG COUNCIL, IOWA[301](cont'd)

Date \_\_\_\_\_

Iowa Egg Producer:

The Iowa Egg Council election will be held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. ~~That is the final date for mailing voted ballots to the Iowa Egg Council.~~

~~Your official ballot is on the back of this letter.~~ Please use it the ballot to vote for your choice of representative(s) to the Iowa Egg Council. The ballot lists the names of the candidates.

~~If you know of any eligible voters who did not receive ballots, please let them know that they can request ballots from the Iowa Egg Council office.~~

If you have any questions on eligibility to vote or to hold office, please contact the Iowa Egg Council office to obtain an answer.

~~To Efforts will be made to ensure the secrecy of your vote, the blank envelope containing your ballot will be thoroughly shuffled among the other ballot envelopes before opening.~~ The number of votes received by any candidate is available to you on request after the vote counting is completed.

The candidate receiving the highest number of votes will be elected to the Council vacancy.

REMEMBER \_\_\_\_\_,  
\_\_\_\_\_ IS THE FINAL DATE TO MAIL OR DELIVER CAST YOUR VOTED  
BALLOT VOTE.

Iowa Egg Council elections are open to all eligible voters without regard to race, color, religion, sex, or national origin.

\_\_\_\_\_  
Executive Director  
Iowa Egg Council

ITEM 22. Amend **301—Chapter 4**, Exhibit 4, as follows:  
EXHIBIT 4. IOWA EGG COUNCIL ELECTION OFFICIAL BALLOT

## INSTRUCTIONS FOR VOTING:

1. If you are a producer who owns, or contracts for the care of, thirty thousand or more layer-type chickens raised in Iowa, you are eligible to vote for members of the Iowa Egg Council.
2. Vote for one candidate for each vacancy. If you vote for more than one for each vacancy, your vote will not be counted.
3. Mark an "X" ~~in the box~~ by the name of the candidate you are voting for.
4. ~~Seal the marked ballot in the ballot envelope. DO NOT ENCLOSE ANY OTHER MATERIAL IN THE BALLOT ENVELOPE. Follow the instructions provided.~~
5. Seal ballot envelope in business reply envelope addressed to the Iowa Egg Council.
6. Sign and date the certification on the back of the business reply envelope. The ballot will not be counted unless the certification is properly signed.
7. Mail the ballot envelope containing your marked ballot sealed in the business reply envelope.



EGG COUNCIL, IOWA[301](cont'd)

8. ~~THE BUSINESS REPLY ENVELOPE CONTAINING THE BALLOT ENVELOPE MUST BE POSTMARKED OR RETURNED TO THE IOWA EGG COUNCIL OFFICE BY \_\_\_\_\_, \_\_\_\_\_ IN ORDER TO COUNT.~~

Date \_\_\_\_\_

NAMES OF CANDIDATES

Egg Producer Representative for large egg production. (Vote for one candidate.)

~~( ) Egg Producer Jones, Anywhere, Iowa.~~

~~( ) Egg Producer Smith, Anywhere, Iowa.~~

Egg Producer Representative for medium egg production. (Vote for one candidate.)

~~( ) Egg Producer Smith, Anywhere, Iowa.~~

~~( ) Egg Producer Jones, Anywhere, Iowa.~~

Egg Producer Representative for small egg production. (Vote for one candidate.)

~~( ) Egg Producer Jones, Anywhere, Iowa.~~

~~( ) Egg Producer Smith, Anywhere, Iowa.~~

ITEM 23. Rescind **301—Chapter 4**, Exhibit 5.

ITEM 24. Amend **301—Chapter 4**, Exhibit 6, as follows:

EXHIBIT #6 5. ASSESSMENT RECORD AND REMITTANCE REPORT

Page \_\_\_\_ of \_\_\_\_ Pages

MAIL OR SEND TO:

Iowa Egg Council  
~~535 East Lincoln Way~~ 8515 Douglas Avenue, Suite 9  
~~Ames, Iowa 50010-0408~~ Urbandale, Iowa 50322

\_\_\_\_\_ Date of this report \_\_\_\_\_  
(Handler or processor name)

\_\_\_\_\_ Report for period \_\_\_\_\_  
(Route or Street & No.) Beginning Ending

\_\_\_\_\_ Employer identification  
(City) (State) (ZIP Code) or social security number \_\_\_\_\_

EGG COUNCIL, IOWA[301](cont'd)

Date of Purchase	Owner (and flock number if applicable)					No. of 30 doz. cases of eggs packed, handled, processed or purchased	Total Deduction <del>at</del> 2½¢ per 30 dozen cases	
	Name	Route	City	State	ZIP			
	Total from Previous Page							
	When using more than one page, carry totals to top line of succeeding page.					TOTALS	30 Dozen cases	\$

IEC Revised 6/76 White copy to Iowa Egg Council, Pink copy to Processor

ITEM 25. Amend **301—Chapter 5**, introductory paragraph, as follows:

The Iowa egg council hereby adopts, with the following exceptions and amendments, rules of the Governor’s Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are ~~printed in the first volume of the Iowa Administrative Code published at [www.legis.iowa.gov/docs/publications/ACOD/767403.pdf](http://www.legis.iowa.gov/docs/publications/ACOD/767403.pdf)~~ on the General Assembly’s website.

ITEM 26. Amend subrule 5.3(1) as follows:

**5.3(1) Location of record.** In lieu of the words “(insert agency head)”, insert “executive director”. In lieu of the words “(insert agency name and address)”, insert “Iowa Egg Council, ~~535 East Lincoln Way, Ames, Iowa 50010~~ 8515 Douglas Avenue, Suite 9, Urbandale, Iowa 50322”.

ITEM 27. Amend rule 301—5.10(17A,22) as follows:

**301—5.10(17A,22) Personally identifiable information.** Agency records include the following personally identifiable information: excise tax remittance in identifying individual producers and the amounts remitted, refund requests from producers, and personal information in confidential personnel records. This information is collected pursuant to the authority of Iowa Code chapter ~~496A~~ 184 and

EGG COUNCIL, IOWA[301](cont'd)

is stored in the office files of the council office. Personally identifiable information contained in these records shall be confidential.

[Filed 1/8/20, effective 3/4/20]

[Published 1/29/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/29/20.

**ARC 4887C**

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT  
DEPARTMENT[605]**

**Adopted and Filed**

**Rule making related to joint 911 service boards**

The Homeland Security and Emergency Management Department hereby amends Chapter 10, "911 Telephone Systems," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 34A.22.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 34A.3 as amended by 2019 Iowa Acts, House File 516.

*Purpose and Summary*

The amendments add the sheriff of each county and the chief of police of each city operating a public safety answering point (PSAP) in that county as voting members of that county's joint 911 service board.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 20, 2019, as **ARC 4769C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on December 31, 2019.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa, since the rule making deals only with membership of joint 911 service boards.

*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.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](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 4, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **10.3(1)“a”** as follows:

*a.* Each political subdivision of the state, having a public safety agency serving territory within the county 911 service area, and each local emergency management agency as defined in Iowa Code section 29C.2 operating within the 911 service area is entitled to one voting membership. The sheriff of each county, or the sheriff's designee, is entitled to voting membership on the county's joint 911 service board. The chief of police of each city operating a public safety answering point, or the chief of police's designee, is entitled to voting membership on the joint 911 service board of the county where the city is located. For the purposes of this paragraph, a township that operates a volunteer fire department providing fire protection services to the township, or a city that provides fire protection services through the operation of a volunteer fire department not financed through the operation of city government, shall be considered a political subdivision of the state having a public safety agency serving territory within the county.

ITEM 2. Amend **605—Chapter 10**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 34A ~~as amended by 2017 Iowa Acts, Senate File 500.~~

[Filed 12/31/19, effective 3/4/20]

[Published 1/29/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/29/20.

**ARC 4891C**

**LIBRARIES AND INFORMATION SERVICES DIVISION[286]**

**Adopted and Filed**

**Rule making related to circulation policies**

The Commission of Libraries hereby amends Chapter 1, “Organization and Operation,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 256.52(4).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 256.59.

*Purpose and Summary*

These amendments add a circulation policy regarding library cards, loan periods, fines, fees, and the suspension of library privileges to the rule describing access to the State Library's collections.

## LIBRARIES AND INFORMATION SERVICES DIVISION[286](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 July 17, 2019, as **ARC 4554C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Commission on December 31, 2019.

*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 Commission for a waiver of the discretionary provisions, if any, pursuant to 286—Chapter 10.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on March 4, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 1.5(3):

**1.5(3) Definitions.**

“*Holds*” are patron requests to reserve items checked out to other patrons. Materials may be placed on hold through the library’s online catalog using a library card. When an item on hold becomes available, the patron placing the hold will be contacted and given five days to pick up the item.

“*Individual library card*” means a card distributed by the state library that allows a patron to access the library’s collections, reference assistance, and online resources.

“*Proof of identity and state residence*” means a government-issued form of identification with a photo and indication of Iowa residency, including but not limited to a driver’s license, a passport, a nonoperator’s identification card, or a military identification card; or, for minors, a school identification card.

“*Resident*” means a person who lives in Iowa or pays property taxes in Iowa.

“*State employee library card*” means a card distributed by the state library that allows a state employee to access the library’s collections, reference assistance, online resources, and interlibrary loan services.

ITEM 2. Adopt the following **new** subrule 1.5(4):

**1.5(4) Library cards.** A resident of Iowa may obtain an individual library card by providing proof of identity and state residence in person, by mail, or online. A state employee may obtain a state employee library card by providing proof of identity, state residence, and state employment in person, by mail, or

## LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

online. Cards expire regularly but can be reactivated. Library privileges will be suspended or canceled when a patron's library card has expired.

ITEM 3. Adopt the following **new** subrule 1.5(5):

**1.5(5) Circulation of library materials.** Circulating materials are checked out for three weeks, and each item may be renewed once if there are no holds on the item. Patrons may renew materials through the library's online catalog.

ITEM 4. Adopt the following **new** subrule 1.5(6):

**1.5(6) Fines and fees.** Fines are not assessed for overdue materials. Lost, unreturned or damaged materials may incur replacement costs up to \$100. Replacement copies will not be accepted. Library privileges will be suspended or canceled when a patron has outstanding debt to the library.

ITEM 5. Adopt the following **new** subrule 1.5(7):

**1.5(7) Library records confidential.** Library records are confidential pursuant to Iowa Code section 22.7. The state librarian is the custodian of the library's records.

[Filed 12/31/19, effective 3/4/20]

[Published 1/29/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/29/20.

**ARC 4892C**

**LIBRARIES AND INFORMATION SERVICES DIVISION[286]**

**Adopted and Filed**

**Rule making related to publications depository program**

The Commission of Libraries hereby amends Chapter 3, "Statewide Programs and Agreements," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 256.52(4).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 256.51(1)"d" and 256.53.

*Purpose and Summary*

Rule 286—3.9(256) describes the State Library's publications depository program. These amendments remove the requirement for an advisory council, lower the number of copies of state agency publications to be deposited with the State Library, and increase the minimum retention period for depository collections.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 17, 2019, as **ARC 4553C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Commission on December 31, 2019.

## LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 286—Chapter 10.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on March 4, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 3.9(2) as follows:

**3.9(2)** *Administration of the depository program.*

*a.* No change.

~~*b.* A nine member advisory council shall be organized to advise the state library regarding this program. The advisory council may be composed of members of state agencies, representatives of depository and nondepository libraries, and the general public. The council shall be appointed by the state librarian with the recommendation of the depository librarian.~~

*e. b.* The state library/depository library center shall serve as the last copy depository for predepository state information products and for those products never deposited with the center since its 1979 inception.

ITEM 2. Amend paragraph **3.9(3)“a”** as follows:

*a.* Upon issuance of a state publication a state agency shall deposit with the depository library center, at no cost to the center, ~~75~~ ten copies of the publication, or a lesser amount if specified by the center.

ITEM 3. Amend paragraph **3.9(5)“b”** as follows:

*b.* All publications received under this program by the full depository and core depository libraries shall be retained for a minimum period of ~~three~~ six years unless a lesser retention period is designated for an item or items by the depository library center.

[Filed 12/31/19, effective 3/4/20]

[Published 1/29/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/29/20.

**ARC 4893C****UTILITIES DIVISION[199]****Adopted and Filed****Rule making related to practice and procedure before the board**

The Utilities Board (Board) hereby amends Chapter 7, “Practice and Procedure,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 474.5 and 476.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 476.2.

*Purpose and Summary*

These amendments update the Board rules that establish filing requirements and procedures for filings made with the Board.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 17, 2019, as **ARC 4537C**. A public hearing was held on August 20, 2019, at 2 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

Comments were made at the oral presentation by the Office of Consumer Advocate, the Iowa Communications Alliance, the Farm Bureau, and rate-regulated utilities. The comments addressed the proposed amendments related to the scope of the procedures, the time for filing a response to a pleading initiating a proceeding, filing of electronic and paper pleadings, and filing requirements for prepared testimony, exhibits and workpapers.

The written comments were the same comments that were made at the oral presentation, described above.

The Board issued an order adopting amendments on December 27, 2019. The order is available on the Board’s electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2016-0022.

The Board made several changes from the Notice based upon comments. The Board retained current language, which was proposed to be stricken, that included a contested case proceeding in the scope of the rules. The Board also retained the time for responding to an initial pleading as 20 days rather than the 14 days proposed in the Notice. The Board cited the electronic filing rules in 199—Chapter 14 for when a pleading is considered filed with the Board, rather than considering a pleading to be filed upon acceptance by the Board.

*Adoption of Rule Making*

This rule making was adopted by the Board on December 27, 2019.

*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.



UTILITIES DIVISION[199](cont'd)

*Waivers*

No waiver provision is included in the amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

*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 4, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 199—7.1(17A,474,476) as follows:

**199—7.1(17A,474,476) Scope and applicability.**

**7.1(1)** This chapter applies to contested case proceedings, investigations, and other hearings proceedings conducted by the board or a presiding officer, ~~unless such the proceedings, investigations, and hearings are excepted below, otherwise ordered in any proceeding if reasonably necessary to fulfill the objectives of the proceeding, or are subject to special rules or procedures that may be adopted in specific circumstances~~ have specific procedures established in board rules. If there are no other applicable procedural rules, this chapter applies to other types of agency action, unless the board or presiding officer orders otherwise. The rules in this chapter regarding the content and format of pleadings, testimony, workpapers, and other supporting documents apply to both paper filings and electronic filings made pursuant to 199—Chapter 14. The rules in this chapter regarding filing, service, and number of copies required apply to paper filings. ~~Where electronic filing is required, Electronically filed documents shall be filed and served according to 199—Chapter 14. The board has established additional procedural requirements in other chapters as described in subrules 7.1(2) through 7.1(5).~~

**7.1(2)** Additional rules applicable only to rate cases, tariff filings, and rate regulation election by rural electric cooperatives are contained in 199—Chapter 26.

~~**7.1(3)** With the exception of rules 199—7.22(17A,476) (ex parte communications), 199—7.26(17A,476) (appeals from a proposed decision of a presiding officer), and 199—7.27(17A,476) (rehearing and reconsideration), none of these procedures shall apply to electric transmission line hearings under Iowa Code chapter 478 and 199—Chapter 11 or to pipeline or underground gas storage hearings under Iowa Code chapter 479 or 479B and 199—Chapters 10 and 13. Procedural rules applicable to these proceedings are found in the respective chapters.~~

~~**7.1(4)**~~ **7.1(3)** Notice of inquiry dockets and investigations. The board may issue a notice of inquiry or open an investigation and establish a docket through which the inquiry or investigation can be processed. The procedural rules in this chapter shall ~~not~~ apply to these dockets, unless otherwise ordered by the board or presiding officer. ~~Instead, the procedures for a notice of inquiry docket shall be specified in the initiating order and shall be subject to change by subsequent order or ruling by the board or the assigned inquiry docket manager. The procedures may include some or all of these procedural rules.~~

**7.1(5)** **7.1(4)** Reorganizations. Procedural rules applicable to reorganizations are included in 199—32.9(476). In the event the requirements in 199—32.9(476) conflict with the requirements in this chapter, the 199—32.9(476) requirements are controlling.

~~**7.1(6)**~~ **7.1(5)** Discontinuance of service incident to utility property transfer. ~~This subrule does not apply to telecommunications service providers registered with the board pursuant to Iowa Code section 476.95A.~~

## UTILITIES DIVISION[199](cont'd)

*a. Scope.* This rule applies to discontinuance of utility service pursuant to Iowa Code section 476.20(1), which includes the termination or transfer of the right and duty to provide utility service to a community or part of a community incident to the transfer, by sale or otherwise, except a stock transfer incident to corporate reorganization. This rule does not limit rights or obligations created by other applicable statutes or rules ~~including, but not limited to, the rights and obligations created by Iowa Code sections 476.22 to 476.26. Additional rules applicable to discontinuance of service by local exchange utilities and interexchange utilities are contained at rule 199—22.16(476). Discontinuance of service to individual customers is addressed in rules 199—19.4(476), 199—20.4(476), 199—21.4(476), and 199—22.4(476). Procedures in the event of a sale or transfer of a customer base by a telecommunications carrier are contained in 199—paragraph 22.23(2)“e.”~~

*b. Application.* A public utility shall obtain board approval prior to discontinuance of utility service. The public utility shall file an application for permission to discontinue service that includes a summary of the relevant facts and the grounds upon which the application should be granted. When the discontinuance of service is incident to the transfer of utility property, the transferor utility and the transferee shall file a joint application.

*c. Approval.* Within 30 days after an application is filed, the board shall approve the application or docket the application for further investigation. Failure to act on the application within 30 days will be deemed approval of the application.

*d. and e.* No change.

~~7.1(7)~~ **7.1(6)** The purpose of these rules is to facilitate the transaction of business before the board and to promote the just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise required by law, may be waived by the board or presiding officer pursuant to 199—1.3(17A,474,476).

~~7.1(8)~~ **7.1(7)** Procedural orders.

*a.* Authority to issue procedural orders in all proceedings, including contested case proceedings, investigations, hearings, and all other dockets and matters before the board when a majority of the board is not available due to emergency, or for the efficient and reasonable conduct of proceedings, is granted to a single board member. If no member of the board is available to issue a procedural order due to emergency, or for the efficient and reasonable conduct of proceedings, the procedural order may be issued by ~~an administrative law judge employed a presiding officer designated by the board.~~ If ~~an administrative law judge~~ a presiding officer is not available to issue a procedural order due to an emergency, or for the efficient and reasonable conduct of proceedings, a procedural order may be issued by the ~~executive secretary or general counsel of the board.~~

*b.* Procedural orders under this subrule shall be issued only upon the showing of good cause and when the prejudice to a nonmoving party is not great. The procedural order under this subrule shall state that it is issued pursuant to the delegation authority established in ~~199 IAC 7.1(8)~~ subrule 7.1(7) and that the procedural order so issued is subject to review by the board upon its own motion or upon motion by any party or other interested person.

ITEM 2. Amend rule 199—7.2(17A,476) as follows:

**199—7.2(17A,476) Definitions.** Except where otherwise specifically defined by law:

“*Board*” means the Iowa utilities board or a majority thereof.

“*Complainants*” are persons who complain to the board of any act or thing done or omitted to be done in violation, or claimed to be in violation, of any provision of Iowa Code chapters 476 through 479B, or of any order or rule of the board.

“*Consumer advocate*” means the ~~consumer advocate office of consumer advocate, a division of the Iowa department of justice,~~ referred to in Iowa Code chapter 475A.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a “no factual dispute” contested case under Iowa Code section 17A.10A.

“*Data request*” means a discovery procedure in which the requesting party asks another person for specified information or requests the production of documents.

## UTILITIES DIVISION[199](cont'd)

“*Expedited proceeding*” means a proceeding before the board in which a statutory or other provision of law requires the board to render a decision in the proceeding in six months or less.

“*Filed*” means ~~received at the office of the board in a manner and form in compliance with the board’s filing requirements~~ accepted for filing by the board as defined in rule 199—14.3(17A,476).

“*Intervenor*” means any person who, upon written petition, is permitted to intervene as a party in a specific proceeding before the board.

“*Issuance*” means the date ~~written on the order unless another date is specified in the order~~ on which an order is uploaded into the board’s electronic filing system.

“*Parties*” include, but are not limited to, complainants, petitioners, applicants, respondents, and intervenors.

“*Party*” means each person named or admitted as a party in a proceeding before the board.

“*Person*” means as defined in Iowa Code section 4.1(20) and includes individuals and all forms of legal entities.

“*Petitioner*” or “*applicant*” means any party who, by written petition, application, or other filing, applies for or seeks relief from the board.

“*Presiding officer*” means one board member, ~~the administrative law judge,~~ or another person so designated by the board ~~for the purposes of~~ with the authority to preside over a particular proceeding.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a ~~contested case~~ proceeding that has been assigned by the board to the presiding officer.

“*Respondent*” means any person against whom a complaint or petition is filed, or who by reason of interest or possible interest in the subject matter of a petition or application or the relief sought therein is made a respondent, or to whom an order is directed by the board initiating a proceeding.

“*Service*” means service by first-class mail pursuant to subrule 7.4(6), unless otherwise specified as prescribed in 199—Chapter 14.

ITEM 3. Amend rule 199—7.3(17A,476) as follows:

**199—7.3(17A,476) Presiding officers.** Presiding officers may be designated by the board to preside over contested cases or other proceedings and conduct hearings and shall have the following authority, unless otherwise ordered by the board:

1. to 8. No change.

9. To render a proposed decision and order in a contested case proceeding, ~~investigation,~~ or other ~~hearing proceeding,~~ subject to review by the board on its own motion or upon ~~application~~ appeal by any party; and

10. No change.

ITEM 4. Amend rule 199—7.4(17A,474,476) as follows:

**199—7.4(17A,474,476) General information.**

**7.4(1) Orders.** All orders ~~will~~ shall be issued and ~~placed in the board’s records and information center~~ uploaded into the board’s electronic filing system. Orders shall be deemed effective upon ~~issuance~~ acceptance into the electronic filing system, unless otherwise provided in the order. ~~Parties and members of the public may view orders in the board’s records and information center and may also view orders and a daily summary of filings on the board’s Web site at <http://iub.iowa.gov>~~ Orders and other filings in dockets may be viewed in the specific docket accessed through the board’s electronic filing system.

**7.4(2) Communications.**

a. No change.

b. Paper communications filings. ~~All paper communications to the board or presiding officer shall be addressed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, unless otherwise specifically directed by the board or presiding officer. Pleadings and other documents required to be filed on paper with the board shall be filed within the time limit, if any, for such filing. Unless otherwise specifically provided, all communications and documents~~

## UTILITIES DIVISION[199](cont'd)

are officially filed upon receipt by the executive secretary in a form that complies with the board's filing requirements. Documents filed with the board shall comply with the requirements in 199—subrule 2.1(3). Persons filing a document with the board must comply with the service requirements in subrule 7.4(6) at the time the document is filed with the board. Paper filings may only be made with board approval, except for filings made pursuant to the exceptions in rule 199—14.4(17A,476).

*c.*—The board may order that filings be submitted electronically in proceedings in which the electronic filing requirement in 199—14.2(17A,476) does not apply. Such filings shall be made pursuant to instructions in 199—Chapter 14 and the board's published standards for electronic information or as delineated in the board order or other official statement requiring those filings.

**7.4(3)** No change.

**7.4(4)** *Number of copies for paper filings.*

*a.*—An original and ten copies are required for most initial filings in a docket made with the board. There are some exceptions, which are listed below. The board or presiding officer may request additional copies.

A = Annual Report (rate-regulated 2 copies, non-rate-regulated 1 copy)

C = Complaints filed pursuant to 199—6.2(476) (original)

CCF = Customer Contribution Fund (original + 1 copy)

E = Electric Franchise or Certificate (original + 3 copies)

EAC = Energy Adjustment Clause (original + 3 copies)

EDR = Electric Delivery Reliability (original + 3 copies)

ES = Extended Area Services (original + 2 copies)

GCU = Generating Certificate Utility (original + 20 copies)

H = Accident (original + 1 copy)

HLP = Hazardous Liquid Pipeline (original + 2 copies)

NIA = Negotiated Interconnection Agreement (original + 3 copies)

P = Pipeline Permit (original + 2 copies)

PGA = Purchased Gas Adjustment (original + 3 copies)

R = Reports-Outages (original + 1 copy)

RFU = Refund Filing Utility (original + 4 copies)

RN = Rate Notification (original + 3 copies)

TF = Tariff Filing (original + 4 copies)

*b.*—Unless otherwise ordered or specified in this rule, parties must either file an original and ten copies or make an electronic filing pursuant to 199—Chapter 14 of all filings including, but not limited to, pleadings and answers (rule 199—7.9(17A,476)), prefiled testimony and exhibits (rule 199—7.10(17A,476)), motions (rule 199—7.12(17A,476)), petitions to intervene and responses (rule 199—7.13(17A,476)), proposals for settlement and responses (rule 199—7.18(17A,476)), stipulations (rule 199—7.19(17A,476)), withdrawals (rule 199—7.21(17A,476)), briefs (subrule 7.23(8)), motions to vacate (subrule 7.23(11)), motions to reopen (rule 199—7.24(17A,476)), interlocutory appeals (rule 199—7.25(17A,476)), appeals from proposed decisions of the presiding officers and responses (rule 199—7.26(17A,476)), applications for rehearing and responses (rule 199—7.27(17A,476)), and requests for stay and responses (rule 199—7.28(17A,476)).

*c.*—When separate dockets are consolidated into a single case, parties shall file one extra copy for each consolidated docket, in addition to the original and the normally required number of copies. For example, if three separate dockets are consolidated into a single case, parties must file an original plus two copies plus the normally required number of copies of each document.

*d. a.* Rule 199—7.23(17A,476) contains requirements regarding the required number of copies for evidence introduced at hearing and for briefs. Subrule 7.10(5) contains requirements regarding the required number of copies for workpapers and supporting documents.

*e. b.* 199—Chapter 26 contains additional requirements regarding the number of paper copies of minimum filing requirements required to be filed in rate and tariff proceedings.

**7.4(5)** *Defective filings.* Only applications, pleadings, documents, testimony, and other submissions that conform to the requirements of an applicable rule, statute, or order of the board or presiding officer

## UTILITIES DIVISION[199](cont'd)

will be accepted for filing. Applications, pleadings, documents, testimony, and other submissions that fail to substantially conform with applicable requirements will be considered defective and may be rejected unless waiver of the relevant requirement has been granted by the board or presiding officer prior to filing. The board or presiding officer may reject a filing even though board employees have file-stamped or otherwise acknowledged receipt of the filing. ~~If a filing is defective due only to the number of copies filed, the board's records and information center staff may correct the shortage of copies with the permission of the filing party and the filing party's agreement to cover all costs of reproduction.~~

**7.4(6) Service of documents.***a. Method of service.*

(1) ~~Paper service. In situations where service of a paper document is permitted or required, and unless otherwise specified by the board or presiding officer or otherwise agreed to by the parties, documents that are required to be served in a proceeding may be served by first class mail or overnight delivery, properly addressed with postage prepaid, or by delivery in person. In expedited proceedings, if service is made by first class mail instead of by overnight delivery or personal service, the sending party must supplement service by sending a copy by electronic mail or facsimile if an electronic mail address or facsimile number has been provided by the receiving party. When a document is served, the party effecting service shall file with the board proof of service in substantially the form prescribed in 199—subrule 2.2(16) or an admission of service by the party served or the party's attorney. The proof of service shall be attached to a copy of the document served. When service is made by the board, the board will attach a service list with a certificate of service signed by the person serving the document to each copy of the document served. Paper service of filings is only required on those parties, or persons, whom the board has approved to receive paper service. All filings required to be served in paper shall also be served on the consumer advocate. All filings served by paper shall be filed electronically pursuant to rule 199—14.16(17A,476) in the appropriate docket in the electronic filing system and shall include a certificate of service.~~

(2) No change.

*b. Date of service.*

(1) Paper service. Unless otherwise ordered by the board or presiding officer, the date of service shall be the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person, or otherwise as the parties may agree. Although service is effective, the document is not deemed filed with the board until it is received by the board pursuant to subrule 7.4(2).

(2) No change.

*c. Parties entitled to service.*

(1) Paper service. ~~A party or other person filing a notice, motion, pleading, or other paper document in any proceeding shall contemporaneously serve the document on all other parties. If a party has been approved by the board to receive service of paper documents, the person filing the document shall serve that party as required by this subrule.~~

(2) and (3) No change.

(4) ~~Service on consumer advocate. A party formally filing any paper document or any other material on paper with the board shall serve three copies of the document or material on the consumer advocate at the same time as the filing is made with the board and by the same delivery method used for filing with the board. "Formal filings" include, but are not limited to, all documents that are filed in a docketed proceeding or that request initiation of a docketed proceeding. The address of the consumer advocate is Office of Consumer Advocate, 1375 E. Court Avenue, Room 63, Des Moines, Iowa 50319-0063.~~

*d. No change.*

**7.4(7) Written appearance Appearance.** Each party to a proceeding shall file in the docket in the board's electronic filing system a separate written appearance, substantially conforming to the form set forth in 199—subrule 2.2(15), identifying one person upon whom the board may electronically serve all orders, correspondence, or other documents. If a party has previously designated a person to be served on the party's behalf in all matters, filing the appearance will not change this designation, unless the party directs that the designated person be changed in the appearance. If a party files an application,

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petition, or other initial pleading, or an answer or other responsive pleading, containing the information that would otherwise be required in an appearance, the filing of a separate appearance is not required. The appearance may be filed with the party's initial filing in the proceeding or may be filed after the proceeding has been docketed.

**7.4(8) Representation by ~~attorney-at-law~~ attorney.**

*a.* Any party to a proceeding before the board or a presiding officer may appear and be heard through a licensed ~~attorney-at-law~~ attorney. If the attorney is not licensed by the state of Iowa, ~~permission to appear must be granted by the board or presiding officer~~ the attorney shall apply for admission pro hac vice as required by Iowa Court Rule 31.14(2)(b). ~~A verified statement that contains the attorney's agreement to submit to and comply with the Iowa Code of Professional Responsibility for Lawyers must be filed with the board and the written appearance of a resident attorney must be provided for service pursuant to Iowa Admission to the Bar rule 31.14(2).~~

*b.* No change.

**7.4(9) Cross reference to public documents, confidential filings, and electronic filings.** The board's rule regarding public documents and confidential filings is at 199—1.9(22). The board's rule regarding electronic filing of documents containing confidential material is at 199—14.12(17A,476).

**7.4(10) Expedited proceedings.**

*a.* If a person claims that a ~~statutory~~ statute or other provision of law requires the board to render a decision in a contested case in six months or less, the person shall include the phrase "Expedited Proceedings Required" in the caption of the first pleading filed by the person in the proceeding. If the phrase is not so included in the caption, the board or presiding officer may find and order that the proceeding did not commence for purposes of the required time for decision until the date on which the first pleading containing the required phrase is filed or such other date that the board or presiding officer finds is just and reasonable under the circumstances.

*b.* If a person claims that a ~~statutory~~ statute or other provision of law requires the board to render a decision in a contested case in six months or less, the person shall state the basis for the claim in the first pleading in which the claim is made.

*c.* No change.

*d.* A party may file a motion that proceedings be expedited even though such treatment is not required by statute or other provision of law. Such voluntary expedited treatment may be granted at the board's or presiding officer's discretion in appropriate circumstances considering the needs of the parties and the interests of justice. In these voluntary expedited proceedings, the board or presiding officer may shorten the filing dates or other procedures established in this chapter. The shortened time limits and additional service requirement applicable to expedited proceedings established in this chapter and listed in paragraph 7.4(10) "c" do not apply to voluntary expedited proceedings under this paragraph unless ordered by the board or presiding officer. If a party requests an expedited proceeding pursuant to this paragraph, the pleading in which the expedited decision is requested shall state in the title "Expedited Proceedings Requested."

ITEM 5. Amend rule 199—7.6(17A,476) as follows:

**199—7.6(17A,476) Telephone Electronic proceedings.** The board or presiding officer may hold proceedings by telephone conference call or other electronic means, such as a webinar service, in which all parties have an opportunity to participate. The board or presiding officer will determine the location of the parties and witnesses for ~~telephone hearings~~ electronic proceedings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when locations are determined.

ITEM 6. Amend rule 199—7.7(17A,476) as follows:

**199—7.7(17A,476) Electronic information.** Filing of electronic information shall comply with the board's rules on electronic filing at 199—Chapter 14 and the board's published standards for electronic information, available on the board's ~~Web site~~ website at <http://iub.iowa.gov> or from the board's ~~records and information~~ customer service center.

## UTILITIES DIVISION[199](cont'd)

ITEM 7. Amend rule 199—7.8(17A,476) as follows:

**199—7.8(17A,476) Delivery of notice of hearing.** When the board or presiding officer issues an order containing a notice of hearing, delivery of the order will be ~~by first-class mail or~~ by electronic notice through the electronic filing system, and to those persons who have been approved to receive paper documents, unless otherwise ordered.

ITEM 8. Amend rule 199—7.9(17A,476) as follows:

**199—7.9(17A,476) Pleadings and answers.**

**7.9(1) Pleadings.** Pleadings may be ~~required by~~ filed pursuant to statute, rule, or order or filed to initiate a docket and shall be filed in the board's electronic filing system.

**7.9(2) Answers.**

*a.* Unless otherwise ordered by the board or presiding officer, answers to complaints, petitions, applications, or other pleadings shall be filed with the board within 20 days after the day on which the pleading being answered was filed in the board's electronic filing system and served upon the respondent or other party. However, when a statute or other provision of law requires the board to issue a decision in the case in six months or less, the answer shall be filed with the board within 10 days of service of the pleading being answered, unless otherwise ordered by the board or presiding officer.

*b. to d.* No change.

~~*e.* An answer shall substantially comply with the form prescribed in 199—subrule 2.2(8).~~

**7.9(3)** No change.

ITEM 9. Amend rule 199—7.10(17A,476) as follows:

**199—7.10(17A,476) Prefiled testimony and exhibits.**

**7.10(1)** The board or presiding officer may order the parties to file prefiled testimony and exhibits prior to the hearing. The use of prefiled testimony is the standard method for providing testimony in board contested case and other proceedings. ~~If ordered to do so, parties must~~ Parties shall file the prefiled testimony and exhibits according to the schedule in the procedural order.

**7.10(2)** Prefiled testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. If possible, each line should be separately numbered. When a witness who has submitted prefiled testimony takes the stand, the witness does not ordinarily repeat the written testimony or give new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. However, the witness may be permitted to correct or update prefiled testimony on the stand and, in appropriate circumstances and with the approval of the board or presiding officer, may give a summary of the prefiled testimony. If the witness has more than three corrections to make to the prefiled testimony or exhibits, then the ~~corrections~~ corrected testimony or exhibits should be filed in ~~written form~~ the appropriate docket in the board's electronic filing system at least three days prior to the hearing. The prefiled testimony and any exhibits shall be marked and identified in conformance with the board's approved naming convention provided on the board's electronic filing system website or as directed in a board order.

**7.10(3)** Parties who wish to present a witness or other evidence in a proceeding shall comply with the board's or presiding officer's order concerning prefiled testimony ~~and documentary evidence and exhibits~~, unless otherwise ordered, or unless otherwise provided by statute or other provision of law.

**7.10(4)** No change.

**7.10(5)** Prefiled testimony and exhibits ~~submitted on paper shall include, where applicable~~ shall be filed in the board's electronic filing system in conformance with subrule 7.10(2), and any supporting documents shall be filed as follows:

*a.* All supporting workpapers.

(1) ~~Unless otherwise ordered by the board or presiding officer, electronic~~ Electronic workpapers in native electronic formats ~~that shall~~ comply with the board's standards for electronic information, which are available on the board's ~~Web site~~ website or from the board's ~~records and information~~ customer service center, shall be provided. Noncompliant electronic workpapers shall be provided as a hard copy

## UTILITIES DIVISION[199](cont'd)

with a brief description of software and hardware requirements. ~~Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.~~

~~(2) All other workpapers and hard copy printouts of electronic files shall be clearly tabbed and indexed, and pages shall be numbered. Each section shall include a brief description of the sources of inputs, operations contained therein, and where outputs are next used.~~

~~(3) (2) Workpapers' underlying analyses and data presented in exhibits shall be explicitly referenced within the exhibit, including the name and other identifiers (e.g., cell coordinates) for electronic workpapers, and volume, tab, and page numbers for other workpapers.~~

~~(4) (3) The source of any number used in a workpaper that was not generated by that workpaper shall be identified.~~

~~b. and c. No change.~~

~~d. Electronic copies, in native electronic format, of all computer-generated exhibits that comply with the board's standards for electronic information, which are available on the board's Web site website or in from the board's records and information customer service center. ~~Noncompliant electronic computer-generated exhibits shall be provided as a hard copy with a brief description of software and hardware requirements. Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.~~~~

~~e. Unless otherwise ordered by the board or presiding officer, the following number of copies shall be filed:~~

~~(1) Electronic workpapers—two copies and two hard copy printouts.~~

~~(2) Other workpapers—five copies.~~

~~(3) Specific studies or financial literature—two copies.~~

~~(4) Computer-generated exhibits—two copies.~~

~~7.10(6) Any prefiled testimony, including workpapers and exhibits, that is subject to the electronic filing requirement shall comply with the board's standards for electronic information, which are available on the board's Web site website or in the board's records and information customer service center, and the electronic filing rules in 199—Chapter 14.~~

~~7.10(7) If a party has filed part or all of its prefiled testimony and exhibits as confidential pursuant to 199—1.9(22), and then later withdraws the claim of confidentiality for part or all of the testimony and exhibits, or if the board denies the request to hold the testimony and exhibits confidential, the party ~~must~~ shall refile the testimony and exhibits without the confidential stamp on each page with the information made public.~~

ITEM 10. Amend rule 199—7.11(17A,476) as follows:

**199—7.11(17A,476) Documentary evidence in books and materials.** When documentary evidence being offered is contained in a book, report, or other document, the offering party ~~should ordinarily shall~~ file only the material, relevant portions in an exhibit ~~or read them into the record~~. ~~If a party offers the entire book, report, or other document containing the evidence being offered, the party shall plainly designate the evidence so offered.~~

ITEM 11. Amend rule 199—7.12(17A,476) as follows:

**199—7.12(17A,476) Motions.** Motions, unless made during hearing, shall be in writing, state the grounds for relief, and state the relief or order sought. Motions based on matters that do not appear of record shall be supported by affidavit. ~~Motions filed on paper shall substantially comply with the form prescribed in 199—subrule 2.2(14) and shall be filed and served pursuant to rule 199—7.4(17A,476).~~ Motions filed electronically shall substantially comply with the form prescribed in 199—subrule 2.2(14) ~~and shall be filed according to~~ in compliance with 199—Chapter 14. Any party may file a written response to a motion no later than 14 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, written responses to a motion must be filed within 7 seven days of the date the motion is filed, unless otherwise ordered by the



## UTILITIES DIVISION[199](cont'd)

board or presiding officer. Failure to file a timely response may be deemed a waiver of objection to the motion. Requirements regarding motions related to discovery are contained at ~~199~~—subrules 7.15(4) and 7.15(5).

ITEM 12. Amend subrule 7.13(1) as follows:

**7.13(1)** Petition. Unless otherwise ordered by the board or presiding officer, a request to intervene in a proceeding shall be by petition to intervene filed no later than 20 days following the order setting a procedural schedule. However, when a statutory or other provision of law requires the board to issue a decision in the case in six months or less, the petition to intervene must be filed no later than ~~10~~ ten days following the order setting a procedural schedule, unless otherwise ordered by the board or presiding officer. ~~A petition to intervene shall substantially comply with the form prescribed in 199—subrule 2.2(10).~~

ITEM 13. Amend subrule 7.14(1) as follows:

**7.14(1)** Consolidation. The board or presiding officer may consolidate in one docket any or all matters at issue in two or more ~~contested cases~~ dockets. When deciding whether to consolidate, the board or presiding officer shall consider:

*a. to d.* No change.

ITEM 14. Amend rule ~~199—~~7.15(17A,476) as follows:

**~~199—~~7.15(17A,476) Discovery.**

**7.15(1)** No change.

**7.15(2)** Unless otherwise ordered by the board or presiding officer or agreed to by the parties, data requests or interrogatories served by any party shall either be responded to or objected to, with concisely stated grounds for relief, within seven days of receipt. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, this time is reduced to five days. Data requests or interrogatories served on a day the board is closed or after 4:30 p.m. central time on a day the board is open shall be considered served on the next business day.

**7.15(3)** and **7.15(4)** No change.

**7.15(5)** Any motion related to discovery shall allege that the moving party has made a good-faith attempt to resolve the discovery issues involved with the opposing party. Opposing parties shall be given the opportunity to respond within ~~ten~~ 14 days of the filing of the motion unless the time is extended or shortened by order of the board or presiding officer. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, this time is reduced to ~~five~~ seven days, unless otherwise ordered by the board or presiding officer. The board or presiding officer may rule on the basis of the written motion and any response, or may order argument or other proceedings on the motion.

ITEM 15. Amend rule ~~199—~~7.17(17A,476) as follows:

**~~199—~~7.17(17A,476) Prehearing or scheduling conference.** ~~An informal conference of parties may be ordered at the discretion of the~~ The board or presiding officer may schedule a prehearing conference, scheduling conference, or other informal conference at the board's or presiding officer's discretion or at the request of any party for any appropriate purpose. Any agreement reached at the conference shall be made a part of the record in the manner directed by the board or presiding officer.

ITEM 16. Amend subrule 7.18(6) as follows:

**7.18(6)** *Unanimous proposed settlement.* In proceedings where all parties join in the proposed settlement, parties may propose a settlement for adoption by the board or presiding officer any time after docketing. Subrules 7.18(2) through 7.18(5) shall not apply to a proposed settlement filed concurrently by all parties to the proceeding. Settlements in general rate case proceedings shall comply with rule ~~199—~~26.3(17A,476).

## UTILITIES DIVISION[199](cont'd)

ITEM 17. Amend paragraph 7.23(4)“d” as follows:

*d.* Unless the exhibit was previously included with prefiled testimony, the party seeking admission of an exhibit at a hearing must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence shall be appropriately marked in accordance with the board’s approved naming convention and made part of the evidentiary record. If an exhibit is admitted, unless it was previously included with prefiled testimony, the sponsoring party must provide at least one copy of the exhibit to each opposing party, one copy for each board member or presiding officer, one copy for the witness (if any), one copy for the court reporter, and two copies for board staff, unless otherwise ordered. The sponsoring party shall file the hearing exhibit in the docket in the board’s electronic filing system within three days of the close of the hearing.

ITEM 18. Amend subrule 7.23(7) as follows:

**7.23(7) Participation at hearings by nonparties.** The board or presiding officer may permit any person to be heard ~~and to examine and cross-examine witnesses~~ at any hearing, but such person shall not be a party to the proceedings unless so designated. The testimony or statement of any person so appearing shall be given under oath and such person shall be subject to cross-examination by parties to the proceeding, unless the board or presiding officer orders otherwise. If a person who is not a party to a proceeding appears at a hearing and requests to examine or cross-examine witnesses, the board or presiding officer may grant the person intervention in the proceeding as a party for the limited purpose requested by the person and in compliance with subrule 7.4(8).

ITEM 19. Amend subrule 7.23(8) as follows:

**7.23(8) Briefs.**

*a.* No change.

~~*b.* Unless otherwise electronically filed and served pursuant to 199 Chapter 14 or otherwise ordered, parties shall file an original and ten copies of briefs with the board and shall serve two copies of briefs on the other parties pursuant to subrule 7.4(6). Parties may serve one paper copy and one copy by electronic mail on the other parties instead of two paper copies. Three copies of briefs shall be served on the consumer advocate pursuant to subrule 7.4(6).~~

*e. b.* Initial briefs shall contain a concise statement of the case. Arguments based on evidence introduced during the proceeding shall specify the portions of the record where the evidence is found. Initial briefs shall include all arguments the party intends to offer in support of its case and against the record case of the adverse party or parties. Unless otherwise ordered, a reply brief shall be confined to refuting arguments made in the brief of an adverse party. Unless specifically ordered to brief an issue, a party’s failure to address an issue by brief shall not be deemed a waiver of that issue and shall not preclude the board or presiding officer from deciding the issue on the basis of evidence appearing in the record.

~~*c.* Every brief of more than 20 pages shall contain on its front leaves a table of contents with page references. Each party’s initial brief shall not exceed 90 pages and each subsequent brief shall not exceed 40 pages, exclusive of the table of contents, unless otherwise ordered. Such orders may be issued ex parte. A brief that exceeds these page limits shall be deemed a defective filing and may be rejected as provided in subrule 7.4(5).~~

*e. d.* Briefs shall comply with the following requirements.

(1) to (6) No change.

(7) Briefs filed electronically shall comply with the requirements in this paragraph and the standards for electronic information available on the board's ~~Web site~~ website or in the board's records and information center.

ITEM 20. Amend subrule 7.23(9) as follows:

**7.23(9) Oral arguments.** The board or presiding officer may set a time for oral argument to address issues raised by the parties during the proceeding or at the conclusion of the hearing, or may set a separate date and time for oral argument. The board or presiding officer may set a time limit for argument. Oral argument may be either in addition to or in lieu of briefs. Unless specifically ordered to argue an issue, a party’s failure to address an issue in oral argument shall not be deemed a waiver of the issue.

## UTILITIES DIVISION[199](cont'd)

ITEM 21. Amend subrule 7.23(10) as follows:

**7.23(10) Record.** The record of the case is maintained in the board's ~~records and information center at the office of the board~~ electronic filing system. Unless the record is held confidential pursuant to 199—1.9(22), parties and members of the public may examine the record and obtain copies of documents ~~other than, including the transcript, when available~~. The transcript will be available for public examination, but copying of the transcript may be restricted by the terms of the contract with the court reporting service.

ITEM 22. Amend paragraph 7.23(11)“b” as follows:

b. Default decisions or decisions rendered on the merits after a party has failed to appear at a hearing constitute final agency action unless otherwise ordered by the board or presiding officer. However, within 15 days after the date of electronic notification or mailing of the decision, a motion to vacate may be filed with the board. The motion to vacate must state all facts relied on by the moving party that show good cause existed for that party's failure to appear at the hearing or answer or otherwise respond to an appropriate pleading directed to and properly served upon that party. The stated facts must be substantiated by affidavit attached to the motion. Unless otherwise ordered, adverse parties shall have ~~40~~ ten days to respond to a motion to vacate. If the decision is rendered by a presiding officer, the board may review it on the board's own motion within 15 days after the date of notification or mailing of the decision.

ITEM 23. Amend rule 199—7.24(17A,476) as follows:

**199—7.24(17A,476) Reopening record.** The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. When the record was made before the board, a motion to reopen the record may be made any time prior to the issuance of a final decision. When the record was made before a presiding officer, a motion to reopen the record shall be made prior to ~~the expiration of the time for appeal from issuance of the proposed decision, and the motion shall stay the time for filing an appeal~~. A motion to reopen the record shall substantially comply with the form prescribed in 199—subrule 2.2(12). Affidavits of witnesses who will present new evidence shall be attached to the motion and shall include an explanation of the competence of the witness to sponsor the evidence and a description of the evidence to be included in the record.

ITEM 24. Amend rule 199—7.26(17A,476) as follows:

**199—7.26(17A,476) Appeals to board from a proposed decision of a presiding officer.**

**7.26(1)** Notification of proposed decision. Notice of the presiding officer's proposed decision and order in a contested case shall be sent through the electronic filing system, or by first-class mail if ~~any paper filing requirements apply to the proceeding~~ the board has granted a party approval to receive service in paper, on the date the order is issued, ~~to the last known address of each party~~. The decision shall normally include “Proposed Decision and Order” in the title and shall normally inform the parties of their right to appeal an adverse decision and the time in which an appeal must be taken.

**7.26(2)** No change.

**7.26(3)** Any adversely affected party may appeal a proposed decision by timely filing a notice of appeal. ~~If the electronic filing requirement applies to the proceeding in which the appeal is taken, the~~ The notice of appeal shall be electronically filed unless the appellant has received permission from the board to submit paper filings. ~~If the electronic filing requirement does not apply, the appellant shall file an original and ten copies of the notice of appeal with the board, provide a copy to the presiding officer, and simultaneously serve a copy of the notice pursuant to subrule 7.4(6) on all parties.~~

**7.26(4)** ~~The board shall not consider any claim of error based on evidence which was not introduced before the presiding officer. Newly discovered material evidence must be presented to the presiding officer pursuant to a motion to reopen the record, unless the board orders otherwise. On appeal of a proposed decision of a presiding officer that is based upon new evidence not introduced in the record before the presiding officer, the board shall determine whether the new evidence requires a new hearing.~~

## UTILITIES DIVISION[199](cont'd)

If the board determines that the new evidence is material to the proposed decision and a new hearing should be held, the board may remand the proposed decision to the presiding officer for the taking of the new evidence or may conduct a hearing and issue an order based upon the record before the presiding officer and the new evidence.

**7.26(5)** Contents of notice of appeal. The notice of appeal shall include the following in separately numbered paragraphs supported, where applicable, by controlling statutes and rules.

*a. to f.* No change.

*g.* If a party wishes to request a stay or other temporary remedy pending review of the proposed decision by the board, the request shall state the reasons justifying a stay or other temporary remedy and shall address the factors listed in Iowa Code section 17A.19(5) "c."

~~*g. h.*~~ Certification of service showing the names and addresses of all parties upon whom a copy of the notice of appeal was served.

**7.26(6)** Responsive filings and cross-appeals. If parties wish to respond to the notice of appeal, or file a cross-appeal, they must file the response or notice of cross-appeal within 14 days after the filing of the notice of appeal, unless otherwise ordered by the board. If a request for a stay or other temporary remedy was included in the notice of appeal, any party wishing to respond to the request shall include the response to the request in the party's response to the notice of appeal or notice of cross-appeal. When a statutory or other provision of law requires the board to issue a decision in the case in less than six months, the response or cross-appeal must be filed within 7 seven days of filing the notice of appeal.

*a. and b.* No change.

**7.26(7)** Ruling on appeal. After the filing of the last appeal, response, or cross-appeal, the board shall issue an order that may establish a procedural schedule for the appeal or may be the board's final decision on the merits of the appeal. If a request for a stay or other temporary remedy was included in the notice of appeal, the request shall be evaluated by the board using the factors stated in rule 199—7.28(17A,476). A stay or other temporary remedy may be vacated by the board upon application of any party or upon the board's own motion.

ITEM 25. Amend rule 199—7.27(17A,476) as follows:

**199—7.27(17A,476) Rehearing and reconsideration.**

**7.27(1)** *Application for rehearing or reconsideration.* Any party to a contested case may file an application for rehearing or reconsideration of the final decision. The application for rehearing or reconsideration shall be filed within 20 days after the final decision in the contested case is issued. This subrule shall not be construed as prohibiting reconsideration of board orders in other than contested cases. The board shall either grant or refuse an application for rehearing within 30 days after the filing of the application or may, after giving the interested parties notice and opportunity to be heard and after consideration of all the facts, including those arising since the making of the order, abrogate or modify its order. A failure by the board to act upon the application for rehearing within the above period shall be deemed a refusal of the application.

**7.27(2)** *Contents of application.* Applications for rehearing or reconsideration shall specify the findings of fact and conclusions of law claimed to be erroneous, with a brief statement of the alleged grounds of error. Any application for rehearing or reconsideration asserting that evidence has arisen since the final order was issued as a ground for rehearing or reconsideration shall present the evidence by affidavit that includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included. ~~An application shall substantially comply with the form prescribed in 199—subrule 2.2(13).~~

**7.27(3)** *Requirements for objections to applications for rehearing or reconsideration.* Notwithstanding the provisions of subrule 7.9(2), an answer or objection to an application for a rehearing or reconsideration must be filed within 14 days of the date the application was filed with the board, unless otherwise ordered by the board. ~~The answer or objection to the application shall substantially comply with the form prescribed in 199—subrule 2.2(8).~~

UTILITIES DIVISION[199](cont'd)

ITEM 26. Amend subrule 7.28(3) as follows:

**7.28(3)** A stay or other temporary remedy may be vacated by the board upon application of any party or upon the board's own motion.

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AGENCY	RULE	DELAY
Professional Licensure Division[645]	100.9(6) [IAB 1/1/20, <b>ARC 4849C</b> ]	Effective date of February 5, 2020, delayed until the adjournment of the 2020 session of the General Assembly by the Administrative Rules Review Committee at its meeting held January 10, 2020. [Pursuant to §17A.8(9)]