



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

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

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

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

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

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### CITATION of Administrative Rules

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

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

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

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

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

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

## Schedule for Rule Making 2021

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
19	Friday, February 19, 2021	March 10, 2021
20	Friday, March 5, 2021	March 24, 2021
21	Friday, March 19, 2021	April 7, 2021

**PLEASE NOTE:**

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

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

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

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

**NOTE: See also the Advisory Notice on page 1797.**

**LABOR SERVICES DIVISION[875]**

Elevators—controlling or preventing access, alterations, agency address, waivers, amendments to chs 65 to 67, 69 to 72  
IAB 2/10/21 **ARC 5436C**

Dial: 312.626.6799  
Meeting ID number: 876 8129 4390  
Pass code: 288604

March 3, 2021  
9 a.m.  
(If requested)

**LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]**

Five-year review of rules; continuing education; criminal convictions, 1.1, 1.2, 1.10(2), 2.2 to 2.5, 2.7, 2.8, 2.10, 2.11, 3.3, 4.1(7)  
IAB 2/10/21 **ARC 5430C**

Board Office, Suite 350  
200 E. Grand Ave.  
Des Moines, Iowa

March 2, 2021  
2:30 to 3 p.m.

**NATURAL RESOURCE COMMISSION[571]**

Deer hunting by residents—firearms, 106.7, 106.10(5)  
IAB 2/10/21 **ARC 5435C**

Via video/conference call  
Contact Matt Bruner  
Email: [matt.bruner@dnr.iowa.gov](mailto:matt.bruner@dnr.iowa.gov)

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

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

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

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

February 18, 2021  
10 to 11 a.m.

**SCHOOL BUDGET REVIEW COMMITTEE[289]**

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

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

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

**TRANSPORTATION DEPARTMENT[761]**

Federal regulations—federal medical certificate form for commercial driver’s license; motor carriers; hazardous materials, 520.1, 529.1, 607.28(7), 607.37(1)“a,” 607.50  
IAB 2/10/21 **ARC 5411C**

Via conference call  
Contact Tracy George  
Email: [tracy.swalwell@iid.iowa.gov](mailto:tracy.swalwell@iid.iowa.gov)

March 4, 2021  
9 to 10 a.m.  
(If requested)

Transporter plates—contact information, form submission, application process, fees, 424.1(1), 424.4(2)  
IAB 2/10/21 **ARC 5413C**

Via conference call  
Contact Tracy George  
Email: [tracy.swalwell@iid.iowa.gov](mailto:tracy.swalwell@iid.iowa.gov)

March 4, 2021  
10 to 11 a.m.  
(If requested)

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

Holiday rest stops; promotion of Iowa agricultural products at interstate rest areas; maintenance bureau, 105.2(4), 105.4, 105.5, 106.3, 106.4 IAB 2/10/21 <b>ARC 5410C</b>	Via conference call Contact Tracy George Email: <a href="mailto:tracy.swalwell@iid.iowa.gov">tracy.swalwell@iid.iowa.gov</a>	March 4, 2021 1 to 2 p.m. (If requested)
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**UTILITIES DIVISION[199]**

Hazardous liquid pipelines and underground storage, amendments to ch 13 IAB 1/27/21 <b>ARC 5403C</b>	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 15, 2021 1:30 to 4:30 p.m.
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**VETERINARY MEDICINE BOARD[811]**

Licensure by verification, 1.4, 6.6 to 6.8 IAB 2/10/21 <b>ARC 5434C</b>	Via conference call: 866.685.1580 Participant access code: 7422903352# Second Floor Boardroom Wallace State Office Bldg. Des Moines, Iowa	March 5, 2021 1 to 2 p.m.
Registration as veterinary technician by verification, 8.11 IAB 2/10/21 <b>ARC 5432C</b>	Via conference call: 866.685.1580 Participant access code: 7422903352# Second Floor Boardroom Wallace State Office Bldg. Des Moines, Iowa	March 5, 2021 1 to 2 p.m.
Applicants with work experience in jurisdictions without licensure requirements, 8.12 IAB 2/10/21 <b>ARC 5433C</b>	Via conference call: 866.685.1580 Participant access code: 7422903352# Second Floor Boardroom Wallace State Office Bldg. Des Moines, Iowa	March 5, 2021 1 to 2 p.m.

The following list will be updated as changes occur.

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

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

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

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ARC 5437C

**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to electronic visit verification  
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 73, “Managed Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code chapter 249A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 249A.

*Purpose and Summary*

Electronic visit verification (EVV) is a federal requirement for states to implement. In December 2016, the 21st Century Cures Act was signed into law. Section 12006 of the Act requires EVV for personal care services beginning January 1, 2020, and for home health services beginning January 1, 2023. Iowa was granted a one-year good-faith exemption, so the requirement for Iowa is January 1, 2021, for personal care services and January 1, 2023, for home health services. The Department is using a managed care implementation model for EVV.

EVV uses technology to electronically record when attendants begin and end providing services to Medicaid members. EVV will be used to ensure members are receiving the care they need that is outlined in the members’ service plan. EVV will be used to monitor the delivery and utilization of personal care and home health services in nontraditional settings and will provide verification of the visit with location information and a time stamp. EVV will be used to ensure quality and program integrity. It also streamlines billing for providers. Once a visit is complete, the claim is sent to the managed care organization (MCO) for payment.

EVV was implemented January 1, 2021, in accordance with federal regulations. Payments were made outside of the system in January to allow providers to start using the system and become familiar with its applications. Providers will need to be using the system by February 1, 2021. These proposed amendments provide additional guidance for providers.

Beginning January 1, 2021, personal care service providers including consumer-directed attendant care (CDAC) providers, homemaker providers, and consumer choice option employees that provide personal care services are required to use EVV. The Department has extended the deadline for assisted living and residential care facilities to July 1, 2021. The EVV implementation for the fee-for-service (FFS) population will be deployed in a second phase for compliance.

*Fiscal Impact*

EVV implementation for personal care services will be completed via the MCO, and the approved contracted vendor will be in compliance with the mandate for the MCO population. Allowing payments outside of the EVV system during January 2021 will incur a noncompliance penalty to be applied to the MCO and FFS personal care services. This cost is estimated at \$57,648 for the first calendar quarter of 2021. Additional FFS noncompliance penalty fees are estimated at \$5,000 in SFY21 and \$15,000 in SFY22. There could potentially be an additional penalty fee of approximately \$10,000 for the first six months of SFY23. The expectation is that FFS personal care will be implemented in the second phase when home health is implemented in January 2023. The Department expects to incur costs in SFY22

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

as it prepares for the January 2023 implementation. These development costs are currently estimated at \$2,040,000 and are expected to be reimbursed at a 90 percent federal match rate. There may also be development costs in SFY23, but the amount is not yet known. Estimates were based on market research. Estimates for the noncompliance costs for personal care services associated with the Federal Medical Assistance Percentages (FMAP) reduction in CY21 through CY23 were based on the FFS population currently receiving personal care services.

*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 March 2, 2021. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of “Electronic visit verification system” in rule **441—73.1(249A)**:

“*Electronic visit verification system*” means, with respect to personal care services or home health care services defined in Section 12006 of the 21st Century Cures Act, a system under which visits conducted as part of such services are electronically verified with respect to: (1) the type of service performed, (2) the individual receiving the service, (3) the date of the service, (4) the location of service delivery, (5) the individual providing the service, and (6) the time the service begins and ends.

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

ITEM 2. Amend subrule 73.18(2) as follows:

**73.18(2)** *Content of individual treatment record.* The managed care organization shall ensure that participating providers maintain an adequate record-keeping system that includes a complete medical or service record for each enrolled member including documentation of all services provided to each enrollee in compliance with the contract and provisions of rule 441—79.3(249A) and pursuant to federal funding requirements, including 42 CFR 456 as amended to October 16, 2015. Beginning January 1, 2021, the managed care organization shall require use of an electronic visit verification system for personal care services.

ITEM 3. Amend paragraph **78.34(7)“c”** as follows:

*c. Service documentation.* The consumer-directed attendant care provider ~~must complete Form 470-4389, Consumer Directed Attendant Care (CDAC) Service Record, for each day of service~~ shall document evidence of compliance with the requirements of this chapter and rule 441—79.3(249A). The documentation or copies of the documentation must be maintained or be electronically accessible by the consumer-directed attendant care provider. Providers must use an electronic visit verification system that captures all documentation requirements of the Consumer-Directed Attendant Care (CDAC) Service Record (Form 470-4389) or use Form 470-4389. Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.

ITEM 4. Amend subparagraph **78.34(13)“m”(4)** as follows:

(4) ~~Employees~~ For personal care services, employees shall use an electronic visit verification system that captures all documentation requirements of the Consumer Choices Option Semi-Monthly Time Sheet (Form 470-4429) or use Form 470-4429. All other employees shall complete, sign and date Form 470-4429, Consumer Choices Option Semi-Monthly Time Sheet, for each date of service provided to a member. Documentation shall comport ~~All employees shall maintain documentation that complies with 441—subparagraph 79.3(2)“e”(3), “Service documentation.” rule 441—79.3(249A).~~

ITEM 5. Amend paragraph **78.37(15)“c”** as follows:

*c. Service documentation.* The consumer-directed attendant care individual and agency providers ~~must complete Form 470-4389, Consumer Directed Attendant Care (CDAC) Service Record, for each day of service~~ shall document evidence of compliance with the requirements of this chapter and rule 441—79.3(249A). Assisted living facilities may choose to use Form 470-4389 or may devise another system that adheres to the requirements of rule 441—79.3(249A). The documentation or copies of the documentation must be maintained or be electronically accessible by the consumer-directed attendant care provider. Providers must use an electronic visit verification system that captures all documentation requirements of the Consumer-Directed Attendant Care (CDAC) Service Record (Form 470-4389) or use Form 470-4389. Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.

ITEM 6. Amend paragraph **78.38(8)“c”** as follows:

*c. Service documentation.* The consumer-directed attendant care provider ~~must complete Form 470-4389, Consumer Directed Attendant Care (CDAC) Service Record, for each day of service~~ shall document evidence of compliance with the requirements of this chapter and rule 441—79.3(249A). The documentation or copies of the documentation must be maintained or be electronically accessible by the consumer-directed attendant care provider. Providers must use an electronic visit verification system that captures all documentation requirements of the Consumer-Directed Attendant Care (CDAC) Service Record (Form 470-4389) or use Form 470-4389. Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.

ITEM 7. Amend paragraph **78.41(8)“c”** as follows:

*c. Service documentation.* The consumer-directed attendant care provider ~~must complete Form 470-4389, Consumer Directed Attendant Care (CDAC) Service Record, for each day of service~~ shall document evidence of compliance with the requirements of this chapter and rule 441—79.3(249A). The documentation or copies of the documentation must be maintained or be electronically accessible by the consumer-directed attendant care provider. Providers must use an electronic visit verification system

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

that captures all documentation requirements of the Consumer-Directed Attendant Care (CDAC) Service Record (Form 470-4389) or use Form 470-4389. Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.

ITEM 8. Amend paragraph **78.43(13)“c”** as follows:

*c. Service documentation.* The consumer-directed attendant care provider ~~must complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service shall document evidence of compliance with the requirements of this chapter and rule 441—79.3(249A). The documentation or copies of the documentation must be maintained or be electronically accessible by the consumer-directed attendant care provider. Providers must use an electronic visit verification system that captures all documentation requirements of the Consumer-Directed Attendant Care (CDAC) Service Record (Form 470-4389) or use Form 470-4389. Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.~~

ITEM 9. Amend paragraph **78.46(1)“c”** as follows:

*c. Service documentation.* The consumer-directed attendant care provider ~~must complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service shall document evidence of compliance with the requirements of this chapter and rule 441—79.3(249A). The documentation or copies of the documentation must be maintained or be electronically accessible by the consumer-directed attendant care provider. Providers must use an electronic visit verification system that captures all documentation requirements of the Consumer-Directed Attendant Care (CDAC) Service Record (Form 470-4389) or use Form 470-4389. Any service component that is not documented in accordance with rule 441—79.3(249A) shall not be payable.~~

ITEM 10. Adopt the following **new** definition of “Electronic visit verification system” in rule **441—83.1(249A)**:

“*Electronic visit verification system*” means, with respect to personal care services or home health care services defined in Section 12006 of the 21st Century Cures Act, a system under which visits conducted as part of such services are electronically verified with respect to: (1) the type of service performed, (2) the individual receiving the service, (3) the date of the service, (4) the location of service delivery, (5) the individual providing the service, and (6) the time the service begins and ends.

ITEM 11. Adopt the following **new** definition of “Electronic visit verification system” in rule **441—83.21(249A)**:

“*Electronic visit verification system*” means, with respect to personal care services or home health care services defined in Section 12006 of the 21st Century Cures Act, a system under which visits conducted as part of such services are electronically verified with respect to: (1) the type of service performed, (2) the individual receiving the service, (3) the date of the service, (4) the location of service delivery, (5) the individual providing the service, and (6) the time the service begins and ends.

ITEM 12. Adopt the following **new** definition of “Electronic visit verification system” in rule **441—83.41(249A)**:

“*Electronic visit verification system*” means, with respect to personal care services or home health care services defined in Section 12006 of the 21st Century Cures Act, a system under which visits conducted as part of such services are electronically verified with respect to: (1) the type of service performed, (2) the individual receiving the service, (3) the date of the service, (4) the location of service delivery, (5) the individual providing the service, and (6) the time the service begins and ends.

ITEM 13. Adopt the following **new** definition of “Electronic visit verification system” in rule **441—83.60(249A)**:

“*Electronic visit verification system*” means, with respect to personal care services or home health care services defined in Section 12006 of the 21st Century Cures Act, a system under which visits conducted as part of such services are electronically verified with respect to: (1) the type of service performed, (2) the individual receiving the service, (3) the date of the service, (4) the location of service delivery, (5) the individual providing the service, and (6) the time the service begins and ends.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 14. Adopt the following **new** definition of “Electronic visit verification system” in rule **441—83.81(249A)**:

“*Electronic visit verification system*” means, with respect to personal care services or home health care services defined in Section 12006 of the 21st Century Cures Act, a system under which visits conducted as part of such services are electronically verified with respect to: (1) the type of service performed, (2) the individual receiving the service, (3) the date of the service, (4) the location of service delivery, (5) the individual providing the service, and (6) the time the service begins and ends.

ITEM 15. Adopt the following **new** definition of “Electronic visit verification system” in rule **441—83.101(249A)**:

“*Electronic visit verification system*” means, with respect to personal care services or home health care services defined in Section 12006 of the 21st Century Cures Act, a system under which visits conducted as part of such services are electronically verified with respect to: (1) the type of service performed, (2) the individual receiving the service, (3) the date of the service, (4) the location of service delivery, (5) the individual providing the service, and (6) the time the service begins and ends.

ITEM 16. Adopt the following **new** definition of “Electronic visit verification system” in rule **441—83.121(249A)**:

“*Electronic visit verification system*” means, with respect to personal care services or home health care services defined in Section 12006 of the 21st Century Cures Act, a system under which visits conducted as part of such services are electronically verified with respect to: (1) the type of service performed, (2) the individual receiving the service, (3) the date of the service, (4) the location of service delivery, (5) the individual providing the service, and (6) the time the service begins and ends.

**ARC 5414C**

## **IOWA FINANCE AUTHORITY[265]**

### **Notice of Intended Action**

#### **Proposing rule making related to number of voting members and providing an opportunity for public comment**

The Iowa Finance Authority hereby proposes to amend Chapter 1, “General,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 16.5.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2536.

#### *Purpose and Summary*

The proposed amendments update rule 265—1.3(16) in accordance with changes included in 2020 Iowa Acts, House File 2536, section 10. The legislation further refines the description of the Iowa Finance Authority Board by noting the number of voting members of the Board.

#### *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.

IOWA FINANCE AUTHORITY[265](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—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 Authority no later than 4:30 p.m. on March 2, 2021. Comments should be directed to:

Kristin Hanks-Bents  
Iowa Finance Authority  
1963 Bell Avenue, Suite 200  
Des Moines, Iowa 50315  
Email: [kristin.hanks-bents@iowafinance.com](mailto:kristin.hanks-bents@iowafinance.com)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend subrule 1.3(2) as follows:

**1.3(2) Authority board and staff.** The powers of the authority are vested in and exercised by a board of nine voting members, appointed by the governor and subject to confirmation by the senate. The authority also includes one ex officio, voting member of the agricultural development board created in Iowa Code section 16.2C, who must be designated by that board. The ex officio, voting member designated by the agricultural development board shall serve at the pleasure of that board. The authority also includes four ex officio, nonvoting legislative members, as set forth in Iowa Code section 16.2(3). A chairperson, vice-chairperson and treasurer are elected annually by the members, generally at the July board meeting each year. Authority staff consists of an executive director, also appointed by the governor and subject to confirmation by the senate, and additional staff as approved by the executive director.

**ARC 5412C****IOWA FINANCE AUTHORITY[265]****Notice of Intended Action****Proposing rule making related to waivers  
and providing an opportunity for public comment**

The Iowa Finance Authority hereby proposes to amend Chapter 11, “Iowa Main Street Loan Program,” and Chapter 18, “Waivers and Variances from Administrative Rules,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 16.5.

*State or Federal Law Implemented*

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

*Purpose and Summary*

The proposed amendments update rules in accordance with changes included in 2020 Iowa Acts, House File 2389, section 10. The changes call for deletions of the word “variance” when the word is used in relation to “waiver.” Amendments are also proposed relating to submission of information regarding waivers on the Legislative Services Agency’s Internet site.

*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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on March 2, 2021. Comments should be directed to:

Kristin Hanks-Bents  
Iowa Finance Authority  
1963 Bell Avenue, Suite 200  
Des Moines, Iowa 50315  
Email: [kristin.hanks-bents@iowafinance.com](mailto:kristin.hanks-bents@iowafinance.com)

*Public Hearing*

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

## IOWA FINANCE AUTHORITY[265](cont'd)

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 265—11.2(16) as follows:

**265—11.2(16) Waiver.** The authority may by resolution waive ~~or vary~~ particular provisions of these rules in accordance with ~~rule 265—1.11(16) or, after August 1, 2001, 265—Chapter 18.~~

ITEM 2. Amend **265—Chapter 18**, title, as follows:

**WAIVERS AND VARIANCES FROM ADMINISTRATIVE RULES**

ITEM 3. Amend rule **265—18.1(17A,16)**, definitions of “Authority” and “Waiver,” as follows:

“*Authority*” means the Iowa finance authority whose powers are exercised by a board of nine voting members appointed by the governor pursuant to Iowa Code section 16.2.

“*Waiver*” ~~or “variance”~~ means an action by the authority which suspends in whole or in part the requirements or provisions of a rule as applied to a person on the basis of the particular circumstances of that person.

ITEM 4. Amend rule 265—18.4(17A,16) as follows:

**265—18.4(17A,16) Criteria for waiver ~~or variance~~.** In response to a petition completed pursuant to rule 265—18.6(17A,16), the authority may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the authority finds, based on clear and convincing evidence, all of the following:

1. to 4. No change.

In determining whether a waiver ~~or variance~~ should be granted, the authority shall consider the public interest, policies and legislative intent of the statute on which the rule is based.

ITEM 5. Amend rule 265—18.6(17A,16), introductory paragraph, as follows:

**265—18.6(17A,16) Content of petition.** A petition for waiver shall include the following information where applicable and known to the requester (for an example of a petition for waiver ~~or variance~~, see Exhibit A at the end of this chapter):

ITEM 6. Amend rule 265—18.12(17A,16) as follows:

**265—18.12(17A,16) ~~Summary reports~~ Submission of waiver information.** ~~The authority shall semiannually prepare a summary report identifying~~ Within 60 days of granting or denying a waiver, the authority shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the authority's actions on waiver requests. If practicable, the report shall detail the extent to which granting a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself. ~~Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~



IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 7. Amend rule 265—18.13(17A,16), introductory paragraph, as follows:

**265—18.13(17A,16) Voiding or cancellation.** A waiver ~~or variance~~ is void if the material facts upon which the petition is based are not true or if material facts have been withheld. A waiver ~~or variance~~ issued by the authority pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the authority issues an order finding any of the following:

ITEM 8. Amend ~~265—~~**Chapter 18**, Exhibit A, as follows:

Exhibit A

Sample Petition for Waiver/~~Variance~~

BEFORE THE IOWA FINANCE AUTHORITY

Petition by (insert name of petitioner) for the waiver of (insert rule citation) relating to (insert the subject matter).



PETITION FOR WAIVER

A petition for waiver ~~or variance~~ from a rule adopted by the authority shall include the following information in the petition for waiver ~~or variance~~ where applicable and known:

- a. Provide the petitioner’s (person asking for a waiver ~~or variance~~) name, address, and telephone number.
  - b. Describe and cite the specific rule from which a waiver ~~or variance~~ is requested.
  - c. Describe the specific waiver ~~or variance~~ requested; include the exact scope and operative time period that the waiver ~~or variance~~ will extend.
  - d. Explain the important facts that the petitioner believes justify a waiver ~~or variance~~. Include in your answer (1) why applying the rule will result in undue hardship on the petitioner; and (2) how granting the waiver ~~or variance~~ will not prejudice the substantial legal rights of any person; and (3) that the provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and (4) where applicable, how substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver ~~or variance~~ is requested.
  - e. Provide a history of prior contacts between the authority and petitioner relating to the regulated activity, license, grant, loan or other financial assistance that would be affected by the waiver ~~or variance~~; include a description of each affected license, grant, loan or other financial assistance held by the petitioner, any notices of violation, contested case hearings, or investigative or examination reports relating to the regulated activity, license, grant or loan within the past five years.
  - f. Provide information known to the petitioner regarding the treatment by the authority of similar cases.
  - g. Provide the name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver ~~or variance~~.
  - h. Provide the name, address, and telephone number of any person that would be adversely affected or disadvantaged by the granting of the waiver ~~or variance~~.
  - i. Provide the name, address, and telephone number of any person with knowledge of the relevant or important facts relating to the requested waiver ~~or variance~~.
  - j. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the authority with information relevant to the waiver ~~or variance~~.
- I hereby attest to the accuracy and truthfulness of the above information.

\_\_\_\_\_  
Petitioner’s signature

\_\_\_\_\_  
Date

IOWA FINANCE AUTHORITY[265](cont'd)

Petitioner should note the following when requesting or petitioning for a waiver ~~or variance~~:

1. The petitioner has the burden of proving to the authority, by clear and convincing evidence, the following: (a) application of the rule to the petitioner would result in an undue hardship on the petitioner; and (b) waiver ~~or variance~~ in the specific case would not prejudice the substantial legal rights of any person; and (c) the provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and (d) where applicable, how substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver ~~or variance~~ is requested.
2. The executive director may request additional information from or request an informal meeting with the petitioner prior to issuing a ruling granting or denying a request for waiver ~~or variance~~.
3. All petitions for waiver ~~or variance~~ must be submitted in writing to the attention of the executive director of the Iowa finance authority at the address set forth in rule 265—1.3(16). If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

**ARC 5436C**

## **LABOR SERVICES DIVISION[875]**

### **Notice of Intended Action**

#### **Proposing rule making related to elevator safety and providing an opportunity for public comment**

The Elevator Safety Board hereby proposes to amend Chapter 65, “Elevator Safety Board Administrative and Regulatory Authority,” Chapter 66, “Waivers or Variances from Administrative Rules by the Elevator Safety Board,” Chapter 67, “Elevator Safety Board Petitions for Rule Making,” Chapter 69, “Contested Cases Before the Elevator Safety Board,” Chapter 70, “Public Records and Fair Information Practices of the Elevator Safety Board,” Chapter 71, “Administration of the Conveyance Safety Program,” and Chapter 72, “Conveyances Installed On or After January 1, 1975,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 89A.3.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 17A and 89A and 2020 Iowa Acts, House File 2389.

#### *Purpose and Summary*

The Board is required by Iowa Code section 89A.13(7) to review all elevator rules every three years. Many of the amendments proposed in this Notice are the result of that systematic review.

Additional amendments were prompted by the passage of 2020 Iowa Acts, House File 2389, which amends the Administrative Procedure Act.

These amendments update the office address, remove obsolete language, update editions of elevator codes adopted by reference, set forth the requirement to submit petitions for rule making and their disposition to the Administrative Rules Review Committee, set forth the requirement to enter information about waiver petitions and their disposition in the Legislative Services Agency’s website, clarify that the Board has jurisdiction over alterations of elevators, set forth procedures and conditions for controlling or preventing access to conveyances and dormant conveyances, and require “scope of work” to be included with an application for an alteration permit.

#### *Fiscal Impact*

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

LABOR SERVICES DIVISION[875](cont'd)

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 66.

*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 3, 2021. 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)

*Public Hearing*

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

March 3, 2021  
9 a.m.

Dial: 312.626.6799  
Meeting ID number: 876 8129 4390  
Pass code: 288604

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 65.2(2) as follows:

**65.2(2)** Hearing and deciding appeals concerning inspection reports that relate to the installation, alteration, operation, and maintenance of conveyances in the state.

ITEM 2. Amend subrule 65.2(5) as follows:

**65.2(5)** Establishing committees of the board, ~~the members and chairpersons of which shall be appointed by the board chairperson.~~

ITEM 3. Amend subrule 65.3(3) as follows:

**65.3(3)** The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after July 1 of each year. Neither the commissioner nor the commissioner's designee may serve as chairperson. The chairperson shall, when present, preside at meetings, appoint members

## LABOR SERVICES DIVISION[875](cont'd)

and chairpersons of committees, and perform all duties and exercise all powers of the chairperson. The vice chairperson shall, in the absence or incapacity of the chairperson, perform all duties and exercise all powers of the chairperson.

ITEM 4. Amend subrule 65.4(5) as follows:

**65.4(5)** Members of the public may be present during board meetings unless the board votes to hold a closed session in accordance with Iowa Code chapter 21. The dates and locations of board meetings may be obtained from the division of ~~labor's Web site~~ labor services' website or the board office.

ITEM 5. Amend rule 875—65.5(89A) as follows:

**875—65.5(89A) Official communications.** All official communications, including submissions and requests, shall be addressed to the Elevator Safety Board, Department of Workforce Development, Division of Labor Services, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309.

ITEM 6. Amend **875—Chapter 66**, title, as follows:

WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES  
BY THE ELEVATOR SAFETY BOARD

ITEM 7. Adopt the following **new** subrules 66.1(1) and 66.1(2):

**66.1(1) Authority.** Authority for the board to grant waivers is set forth in Iowa Code sections 17A.9A and 89A.11.

**66.1(2) Definition.** “Waiver” means a waiver pursuant to Iowa Code section 17A.9A or an exception or variance pursuant to Iowa Code section 89A.11.

ITEM 8. Amend rule 875—66.3(17A,89A), introductory paragraph, as follows:

**875—66.3(17A,89A) Criteria for waiver or variance.** In response to a petition completed pursuant to this chapter, the board may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule as applied to an identified person on the basis of the particular circumstances of that person if the board finds, based on clear and convincing evidence, all of the following:

ITEM 9. Amend subrule 66.3(5) as follows:

**66.3(5)** There is a reasonable relationship between the age of the conveyance and the ~~variance~~ waiver requested.

ITEM 10. Amend subrule 66.4(3) as follows:

**66.4(3) Filing petition.** A petition is deemed filed when it is received in the board's office. A petition should be sent to the Elevator Safety Board, Department of Workforce Development, Division of Labor Services, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. The petitioner shall submit the petition and all related materials for consideration at least three weeks prior to a scheduled board meeting for board review of the petition at the meeting.

ITEM 11. Amend rule 875—66.5(17A,89A), introductory paragraph, as follows:

**875—66.5(17A,89A) Content of petition.** The required form for a petition for waiver ~~or variance~~ is available on the board's website at www.iowaelevators.gov. A petition for waiver shall include the following information where applicable and known to the petitioner:

ITEM 12. Rescind rule 875—66.12(17A,89A) and adopt the following **new** rule in lieu thereof:

**875—66.12(17A,89A) Summary reports.** Information about all orders granting or denying a waiver petition shall be submitted by the board staff to the legislative services agency through the designated Internet site within 60 days of granting or denying the petition. The information submitted is available to the public via the website.

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 13. Amend subrule 67.1(7) as follows:

**67.1(7)** The board may deny a petition because it does not provide the required information. ~~The petitioner may file a new petition on the same subject that seeks to eliminate the grounds for the board's rejection.~~

ITEM 14. Amend rule 875—67.3(17A,89A) as follows:

**875—67.3(17A,89A) Inquiries.** Inquiries concerning the status of a petition for rule making may be made to Elevator Safety Board, Department of Workforce Development, Division of Labor Services, ~~4000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309.

ITEM 15. Amend subrule 67.4(3) as follows:

**67.4(3)** Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board shall deny the petition in writing and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that the board will institute rule-making proceedings on the subject of the petition. Notice shall be sent by the board office to the petitioner by regular mail. Petitioner shall be deemed notified of the denial or granting of the petition on the date the board office mails the required notification to the petitioner. Copies of the petition and the document granting or denying the petition shall be sent to the administrative rules review committee.

ITEM 16. Amend subrule 69.1(5) as follows:

**69.1(5)** The commissioner shall not consider any request for waiver ~~or variance~~ of an administrative rule made as part of a petition for reconsideration. Requests for waivers ~~or variances~~ of administrative rules may only be made to the board pursuant to the provisions of 875—Chapter 66.

ITEM 17. Amend paragraph **69.10(5)“d”** as follows:

*d.* A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Elevator Safety Board, Department of Workforce Development, Division of Labor Services, ~~4000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309, and to the names and addresses of the parties listed below by depositing the same in a United States post office mailbox with correct postage properly affixed.

(Date)

(Signature)

ITEM 18. Amend subrule 70.3(1) as follows:

**70.3(1) Address.** The board's mailing address is Department of Workforce Development, Division of Labor Services, ~~4000 East Grand Avenue, Des Moines, Iowa 50319.~~ The board's staff is located at 150 Des Moines Street, Des Moines, Iowa 50309.

ITEM 19. Amend subrule 70.15(4) as follows:

**70.15(4) Waivers ~~and variances~~.** Requests for waivers ~~and variances~~, board proceedings and rulings on such requests, ~~and reports prepared for the administrative rules review committee and others~~ are stored on paper and electronically.

ITEM 20. Adopt the following **new** definitions of “Imminent danger,” “Seal off,” “Serious danger” and “Waiver” in rule **875—71.1(89A)**:

“*Imminent danger*” means one or more conditions or practices exist which are reasonably expected to cause death or serious physical harm immediately or before the danger can be eliminated through the procedures described in subrules 71.11(6) and 71.11(7).

“*Seal off*” means to place a conveyance controller in the off position and attach a wire seal with a tag warning that the conveyance must be rendered dormant or shall not be used pending repairs.

“*Serious danger*” means one or more conditions or practices exist which create a substantial probability that death or serious physical harm could result.

## LABOR SERVICES DIVISION[875](cont'd)

“*Waiver*” means a waiver pursuant to Iowa Code section 17A.9A or an exception or variance pursuant to Iowa Code section 89A.11.

ITEM 21. Amend subrule 71.5(4) as follows:

**71.5(4)** Issuance of an installation permit shall not be construed as a waiver ~~or variance~~ of any requirement of law.

ITEM 22. Amend subrule 71.9(2) as follows:

**71.9(2)** Application for an alteration permit shall be in the format required by the labor commissioner and shall include scope of work, drawings and specifications of all planned changes and the fee specified by rule 875—71.16(89A).

ITEM 23. Amend subrule 71.9(3) as follows:

**71.9(3)** Issuance of an alteration permit shall not be construed as a waiver ~~or variance~~ of any requirement of law.

ITEM 24. Amend paragraph **71.11(7)“b”** as follows:

*b.* After the period specified on the inspection report has passed, the labor commissioner may cause a state inspector to verify correction of all unsafe conditions. If reinspection reveals no significant progress toward correcting the unsafe conditions, or the remaining unsafe conditions create significant safety concerns, the labor commissioner may serve a notice of intent to suspend, deny or revoke the operating permit.

If there is a serious danger, the labor commissioner may seal off the conveyance and shall post notice on the conveyance that it is not to be used pending repairs. Use of a conveyance prior to completion of the required repairs may result in additional legal proceedings. The conveyance may be returned to service only after the serious danger has been corrected and the conveyance has passed a comprehensive inspection.

ITEM 25. Rescind paragraph **71.11(7)“e”** and adopt the following **new** paragraph in lieu thereof:

*e.* If a special inspector conducted the inspection, more than 45 days have passed since the deadline for correction of hazards, and an inspection report indicating the hazards are corrected has not been filed, the labor commissioner may:

- (1) Contact the special inspector,
- (2) Send a second abatement order to the owner with copies of the inspection report and first abatement order, or
- (3) Send a state inspector to inspect the conveyance. If there is a serious danger, the labor commissioner may seal off the conveyance and shall post notice on the conveyance that it is not to be used pending repairs. Use of a conveyance prior to completion of the required repairs may result in additional legal proceedings. The conveyance may be returned to service only after the serious danger has been corrected and the conveyance has passed a comprehensive inspection.

ITEM 26. Adopt the following **new** paragraph **71.11(7)“h”**:

*h.* If notice pursuant to paragraph 71.11(7)“a” was provided and a conveyance is not in use and the owner does not intend to use the conveyance, repair the conveyance, or make the conveyance dormant, the commissioner may seal off the conveyance.

ITEM 27. Amend subrule 71.11(8) as follows:

**71.11(8) *Imminent danger.*** If the labor commissioner determines that continued operation of a conveyance pending correction of unsafe conditions creates an imminent danger, the labor commissioner may seal off the conveyance and shall post notice on the conveyance that it is not to be used pending repairs. Use of a conveyance contrary to posted notice by the labor commissioner may result in additional legal proceedings pursuant to Iowa Code section 89A.10(3) or 89A.18. The conveyance may be returned to service only after the imminent danger has been corrected and the conveyance has passed a comprehensive inspection.

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 28. Amend rule 875—71.18(89A) as follows:

**875—71.18(89A) Other regulations affecting elevators.** Regulations concerning accessibility of buildings and conveyances available to the public are found at 661—Chapter 302. Regulations governing the safety and health of employees who work in and around elevators are found at 875—Chapters 2 to 26. Iowa Code chapter 91C and 875—Chapter 150 apply to companies that alter and install conveyances. No rule in 875—Chapters 71 to 73 shall be interpreted as creating an ~~exemption, a waiver, or variance~~ from any otherwise applicable regulation or statute.

ITEM 29. Amend subrule 72.1(10), introductory paragraph, as follows:

**72.1(10)** For installations between January 14 ~~15~~, 2015, and May 16, 2018:

ITEM 30. Amend subrule 72.1(11), introductory paragraph, as follows:

**72.1(11)** For installations ~~on or after~~ between May 16 ~~17~~, 2018, and May 31, 2021:

ITEM 31. Adopt the following **new** subrule 72.1(12):

**72.1(12)** For installations on or after June 1, 2021:

- a. ASME A17.1 shall mean ASME A17.1-2019/CSA B44-19, except that,
  - (1) Approaching object detection as described in 2.13.5 shall be optional; and
  - (2) ASME A17.1-2016/CSA B44-16, requirement 2.13.5, shall apply if approaching object detection is not installed;
- b. ASME A17.7 shall mean ASME A17.7-2012/CSA B44.7-12;
- c. ASME A17.8 shall mean ASME A17.8-2016/CSA B44.8-16;
- d. ASME A18.1 shall mean ASME A18.1 (2014), except Chapters 4, 5, 6, and 7;
- e. ANSI A117.1 shall mean ANSI A117.1 (2017), except for requirement 407.4.7.1.2; and
- f. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2017).

## ARC 5430C

### LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

#### Notice of Intended Action

#### Proposing rule making related to administrative rules review, continuing education, and criminal convictions and providing an opportunity for public comment

The Landscape Architectural Examining Board hereby proposes to amend Chapter 1, “Description of Organization,” Chapter 2, “Examinations and Licensing,” Chapter 3, “Continuing Education,” and Chapter 4, “Rules of Professional Conduct and Discipline Procedures,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 544B.5.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 544B.5 and 2020 Iowa Acts, House File 2627.

#### *Purpose and Summary*

The proposed amendments implement changes to improve readability of the rules and implement the five-year rolling review of administrative rules as outlined in Iowa Code section 17A.7(2). This proposed rule making is adding the criminal conviction eligibility determination available prior to submittal of an application for licensure, with a \$25 fee to cover the associated costs as set forth in 2020 Iowa Acts, House File 2627.

## LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 193—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 Board no later than 4:30 p.m. on March 2, 2021. Comments should be directed to:

Jill Simbro  
Landscape Architectural Examining Board  
200 East Grand Avenue, Suite 350  
Des Moines, Iowa 50309  
Email: [jill.simbro@iowa.gov](mailto:jill.simbro@iowa.gov)

*Public Hearing*

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

March 2, 2021  
2:30 to 3 p.m.

Board Office, Suite 350  
200 East Grand Avenue  
Des Moines, Iowa

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following new definitions of “Inactive” and “Retired” in rule **193D—1.1(544B,17A)**:

“Inactive” means that a landscape architect is not engaged in Iowa in any practice for which a certificate of licensure is required.



## LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

“Retired” means that a landscape architect is not engaged in the practice of landscape architecture or earning monetary compensation by providing professional landscape architectural services in any licensing jurisdiction of the United States or a foreign country.

ITEM 2. Amend rule 193D—1.2(544B,17A) as follows:

**193D—1.2(544B,17A) Organization and duties.** The board consists of five members who are licensed professional landscape architects and two members who are not licensed professional landscape architects and who represent the general public.

**1.2(1) Qualifications of professional landscape architect board members.** Four of the five professional members shall be actively engaged in the practice of landscape architecture or the teaching of landscape architecture in an accredited college or university, and shall have been so engaged for five years preceding appointment, the last two of which shall have been in Iowa. One of the five professional members shall be actively engaged in the practice of landscape architecture or the teaching of landscape architecture in an accredited college or university, and may have been so engaged for fewer than five years preceding.

**1.2(2) Election of chairperson and vice chairperson.** The board elects annually from its members a chairperson and a vice chairperson. A quorum of the board shall be four members, and all final motions and actions must receive a vote by a majority of the members of the board.

**1.2(3) Duties of board.** The board enforces the provisions of Iowa Code chapter 544B and makes rules for the examination of applications for licensure. The board keeps records of its proceedings. The board adopts an official seal which is affixed to all certificates of licensure granted. The board makes other rules, not inconsistent with law, as necessary for the proper performance of its duties. The board maintains a roster of all licensed professional landscape architects showing the name, place of business, residence, and date and number of the certificate of licensure of every professional landscape architect in the state.

~~1.2(4)~~ **1.2(4) Chairperson Duties of chairperson.** The chairperson shall, when present, preside at meetings, appoint committees, and perform all duties and powers of the chairperson.

~~1.2(5)~~ **1.2(5) Vice Duties of vice chairperson.** The vice chairperson shall, in the absence or incapacity of the chairperson, exercise the duties and powers of the chairperson.

ITEM 3. Amend subrule 1.10(2) as follows:

**1.10(2)** The ~~executive officer~~ board administrator shall, upon receipt of a petition that meets all applicable criteria established in 193—Chapter 5, present the request to the board chairperson or vice chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

ITEM 4. Rescind rule 193D—2.2(544B,17A) and adopt the following new rule in lieu thereof:

**193D—2.2(544B,17A) Application for licensure by examination.**

**2.2(1)** Candidates shall contact CLARB to start the examination licensure process by creating a council record. A candidate’s council record will include verified history of the candidate’s education, experience, examination and licensure history, and professional references and is used to apply for examination, licensure and certification.

**2.2(2)** The candidate who successfully completes the LARE may make application for certificate of licensure to the board after meeting one of the requirements listed below and requesting that the candidate’s council record be transmitted to the board.

*a.* Graduation from a course in landscape architecture in a school, college, or university offering an accredited minimum four-year curriculum in landscape architecture, and a minimum of three years of practical experience in landscape architectural work which in the opinion of the board is of satisfactory character, at least one year of which must be under the supervision of a professional landscape architect or a person who becomes a professional landscape architect within one year after July 1, 2002.

*b.* Graduation from a nonaccredited course of landscape architecture of a minimum of four years in a school, college, or university and a minimum of four years of practical experience in landscape

## LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

architectural work which in the opinion of the board is of satisfactory character, at least one year of which must be under the supervision of a professional landscape architect.

c. A minimum of ten years of practical experience in landscape architectural work which in the opinion of the board is of satisfactory character to properly prepare the applicant for the examination.

**2.2(3)** A satisfactorily completed year of study in an accredited course of landscape architecture in an accredited school, college, or university may be accepted in lieu of one year of practical experience.

**2.2(4)** A master's degree from an accredited school, college, or university may be accepted in lieu of one year of practical experience.

**2.2(5)** Any four-year college or university degree may be accepted in lieu of two years of practical experience.

ITEM 5. Amend rule 193D—2.3(544B,17A) as follows:

**193D—2.3(544B,17A) Procedure for processing applications.** ~~Each application shall be considered individually by the board. The board authorizes the chairperson to review applications between board meetings. The chairperson will determine if the applications meet the requirements for approval or will need full board review. A~~ The board administrator shall determine when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations, and the board administrator shall submit to the board any questionable application. ~~An applicant's personal appearance before the board, if required, shall be at the time and place designated by the board. Failure to supply additional evidence or information within 30 days from the date of the written request from the board, or failure to appear before the board when an appearance is requested, may be considered cause for disapproval of the application. Unless otherwise provided by law, a request for a rehearing before the board shall be filed with the board in accordance with rule 193—7.39(543,272C). A judicial review can be filed in accordance with Iowa Code section 17A.19.~~

ITEM 6. Amend rule 193D—2.4(544B,17A) as follows:

**193D—2.4(544B,17A) Examination Registration of applicants.** ~~Examinations shall be conducted by the board at least once annually. Applicants need not meet preconditions to take the professional landscape architectural licensure examination, but applicants~~ Applicants ~~must meet requirements of Iowa Code section 544B.9 for registration.~~

ITEM 7. Amend rule 193D—2.5(544B,17A) as follows:

**193D—2.5(544B,17A) Written examination.** The written examination shall consist of the professional landscape architectural licensure examination published by CLARB and may include supplementary questions developed by the board.

~~**2.5(1) Instructions.** A copy of examination instructions and notice of the date and location of the examination will be furnished to each applicant at least 30 days in advance of the examination. The examination is divided into several sections. An applicant may sit for any or all of the sections at a single sitting. Sections which are passed are not required to be repeated. An applicant who intends to sit for any sections not previously passed must file an application for reexamination with the proper fee(s) on a form provided by the board which must be received in the board office no later than the last day of March for the June examination and the last day of September for the December examination.~~

~~**2.5(2) Grades.** The board shall notify the examinee of the examination grade.~~

~~**2.5(3) Examinations review process.** Candidates may review their own graded examinations using the following procedures:~~

~~a. Within a maximum of 30 days from the date of the notification of failure, a written request by the candidate may be filed with the Iowa landscape architectural examining board to include:~~

~~(1) Candidate number or name.~~

~~(2) Date of examination.~~

~~(3) Examination section requested to be reviewed.~~

~~b. The review time for each failed section may be limited by the board.~~

## LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

~~c.—A board member or staff person must be present to observe and to provide assistance to the candidate.~~

~~d.—There shall be no copying or tracing allowed; however, a candidate may take notes.~~

~~e.—A candidate shall be allowed to review all of the candidate's examination, including evaluation guides and evaluators' score sheets.~~

~~f.—The candidate shall sign a statement stating the terms of the review procedure.~~

ITEM 8. Amend rule 193D—2.7(544B,17A), introductory paragraph, as follows:

**193D—2.7(544B,17A) Certificate of licensure.** When an applicant has qualified for licensure under this chapter and has paid the required license fee, the secretary shall enroll the applicant's name in the roster of professional landscape architects and issue to the applicant a certificate of licensure ~~signed by the chairperson and vice chairperson of the board.~~

ITEM 9. Amend rule 193D—2.8(17A,272C,544B) as follows:

**193D—2.8(17A,272C,544B) Renewal of certificates of licensure.** Certificates of licensure expire biennially on June 30. In order to maintain authorization to practice in Iowa, a licensee is required to renew the certificate of licensure prior to ~~the expiration date~~ June 30 of the year of expiration. ~~However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days prior to the date of expiration.~~ A licensee who fails to renew by the expiration date is not authorized to practice landscape architecture in Iowa until the certificate is reinstated as provided in rule 193D—2.9(544B,17A).

**2.8(1)** It is the policy of the board to ~~e-mail~~ email to each licensee a notice of the pending expiration date at the licensee's last-known address approximately one month prior to the date the certificate of licensure is scheduled to expire. Failure to receive this notice does not relieve the licensee of the responsibility to timely renew the certificate and pay the renewal fee. A licensee should contact the board office if the licensee does not receive a renewal notice prior to the date of expiration.

**2.8(2)** If grounds exist to deny a timely and sufficient application to renew, the board shall send ~~written~~ notification to the applicant ~~by restricted certified mail, return receipt requested.~~ Grounds may exist to deny an application to renew if, for instance, the licensee failed to satisfy the continuing education as required as a condition for licensure. If the basis for denial is pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

**2.8(3)** When a licensee appears to be in violation of mandatory continuing education requirements, and after or in lieu of giving the licensee an opportunity to come into compliance under 193D—subrule 3.3(3), the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), offer the licensee the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the licensee complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the licensee. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed certificate of licensure and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the licensee pursuant to 193—subrule 7.40(1).

**2.8(4) to 2.8(7)** No change.

**2.8(8)** Inactive status. This subrule establishes a procedure under which a person issued a certificate of licensure as a landscape architect may apply to the board to register as inactive. Licensure under this subrule is available to a licensee residing within or outside the state of Iowa who is not using the title

## LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

“landscape architect” while offering services as a landscape architect. A person eligible to register as inactive may, as an alternative to licensure, allow the certificate of licensure to lapse. During any period of inactive status, a person shall not engage in the practice of landscape architecture while using the title “landscape architect” or any other title that might imply that the person is offering services as a landscape architect in violation of Iowa Code section 544B.18. The board will continue to maintain a database of persons ~~registered~~ licensed as inactive, including information which is not routinely maintained after a certificate of licensure has lapsed through the person’s failure to renew. A person who registers as inactive will accordingly receive a renewal notice if the notice is sent by the board, board newsletters, and other mass communications from the board.

*a. Affirmation.* The renewal application shall contain a statement in which the applicant affirms that the applicant will not engage in the practice of landscape architecture while using the title “landscape architect” in violation of Iowa Code section 544B.18, without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to rule 193D—2.9(544B,17A).

*b. Renewal.* A person ~~registered~~ licensed as inactive may renew the person’s certificate of licensure on the biennial schedule described in ~~193D—2.8(544B,272C,17A)~~ this rule. This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in ~~193D—2.10(544B,17A)~~ rule 193D—2.11(544B,17A). An inactive certificate of licensure shall lapse if not timely renewed.

*c. Permitted practices.* A person may, while ~~registered~~ licensed as inactive or retired, perform for a client, business, employer, government body, or other entity those services which may lawfully be provided by a person to whom a certificate of licensure has never been issued. For an “inactive” licensee, such services may be performed as long as the person does not in connection with such services use the title “landscape architect” or any other title restricted for use only by landscape architects pursuant to Iowa Code section 544B.18 (with or without additional designations such as “inactive”). Restricted titles may be used only by active landscape architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education. A “professional landscape architect, retired” may use the “professional landscape architect, retired” title; however, the person shall inform anyone to whom the person is providing services that the person once held an active landscape architect license but is no longer actively licensed or permitted to practice landscape architecture.

*d. Prohibited practices.* A person who, while ~~registered~~ licensed as inactive, engages in any of the practices described in Iowa Code section 544B.18 is subject to disciplinary action.

ITEM 10. Renumber rule **193D—2.10(544B,17A)** as **193D—2.11(544B,17A)**.

ITEM 11. Adopt the following new rule 193D—2.10(544B,17A):

**193D—2.10(544B,17A) Responsibility for accuracy of applications.** The landscape architect is responsible for verifying the accuracy of the information submitted on applications regardless of how the application is submitted or by whom it is submitted. For instance, if the office manager of a landscape architect’s firm submits an application for renewal on behalf of the landscape architect and that information is incorrect, the landscape architect will be held responsible for the information and may be subject to disciplinary action.

ITEM 12. Amend renumbered rule 193D—2.11(544B,17A) as follows:

**193D—2.11(544B,17A) Fee schedule.** The appropriate fee shall accompany the application.

## LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

Fees for examination subjects shall be paid directly to the testing service selected by CLARB.

Exemption fee	\$300
(This certificate of licensure is to be effective to the June 30 which is at least 12 months beyond the date of the application.)	
Wall certificate replacement fee	\$25
Certificate of licensure fee	\$15/month
(This certificate of licensure is to be effective the day of board action until June 30.)	
Biennial licensure fee (active)	\$350
Biennial licensure fee (inactive)	\$100
Late renewal fee	\$25
(for renewals <del>postmarked</del> <u>submitted</u> on or after July 1 and before July 30)	
“Professional landscape architect, retired” status	\$0 (No fee)
Reinstatement of lapsed licensure to active status	\$100 + renewal fee + \$25 per month or partial month of lapsed licensure; not to exceed \$750
Reinstatement of inactive or retired status to active status	\$350
(If less than 12 months from the next biennial renewal, one-half of the current active licensure fee shall be paid.)	
<u>Prelicense determination fee</u>	<u>\$25</u>

ITEM 13. Amend paragraph **3.3(1)“g”** as follows:

g. In instances of service on a professional or community board, or other undocumented hours of continuing education (non-HSW documentation such as LU, PDH), the licensee shall provide a narrative description of the materials the licensee reviewed, the nature of the licensee’s service, and a description as to how the licensee’s claimed hours of continuing education have contributed to the health, safety and welfare of the public.

ITEM 14. Amend subrule 3.3(2) as follows:

**3.3(2)** A professional landscape architect’s continuing education report forms or online renewal may be selected for review by the board for verification of compliance with these requirements. Evidence of compliance shall be maintained by the professional landscape architect for two years after the period for which the form was submitted and shall include written verification of attendance by someone other than the licensee. Examples of evidence may include, but are not limited to, a certificate of completion presented by the program sponsor, a letter from an employer verifying attendance at an in-firm training session, or copies of minutes from public service meetings. Canceled checks, slideshow presentations, email confirmation or receipts for payments of fees to attend a program are not evidence of actual attendance and are not acceptable.

ITEM 15. Rescind subrule 3.3(3) and adopt the following new subrule in lieu thereof:

**3.3(3)** Any discrepancy between the number of continuing education hours reported and the number of continuing education hours actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any continuing education hours, or the licensee has failed to complete the required continuing education hours, the landscape architect shall have 60 days from board notice to either provide further evidence of having completed the continuing education hours disallowed or remedy the discrepancy by completing the required number of continuing education hours

## LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

(provided that such continuing education hours shall not again be used for the next renewal). Extension of time may be granted on an individual basis and must be requested by the licensee within 30 days of notification by the board. If the licensee fails to comply with the requirements of this subrule, the licensee may be subject to disciplinary action.

ITEM 16. Amend paragraph 4.1(7)“b” as follows:

b. Description of seal. The diameter of the outside circle shall be approximately 1¾ inches. The seal shall include the name of the professional landscape architect and the words “Professional Landscape Architect, State of Iowa.” The professional landscape architect’s Iowa license number ~~and the word “Iowa”~~ shall be included. The seal shall substantially conform to the sample shown below:



**ARC 5435C**

**NATURAL RESOURCE COMMISSION[571]**

**Notice of Intended Action**

**Proposing rule making related to firearms legal for deer hunting  
and providing an opportunity for public comment**

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 106, “Deer Hunting by Residents,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(7), 481A.38(1)“a” and 481A.48.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 481A.48.

*Purpose and Summary*

Chapter 106 contains the regulations for the resident deer hunting seasons and includes licensing requirements, season dates, shooting hours, bag limits, possession limits, tagging requirements, and methods of take.

This rule making proposes to align Chapter 106 with Iowa Code section 481A.48 as amended by 2020 Iowa Acts, House File 716 (signed by Governor Reynolds on June 18, 2020), which makes certain firearms legal for deer hunting. Specifically, the following amendments are proposed:

1. Adopt in full the statute’s technical parameters for the handguns and rifles that are now legal for deer hunting during the regular gun seasons and the youth/severely disabled season; and
2. Adopt the statute’s requirement that youth who are hunting deer with a handgun must do so under the direct supervision of a licensed responsible adult.

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

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 2, 2021. Comments should be directed to:

Matt Bruner  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Email: [matt.bruner@dnr.iowa.gov](mailto:matt.bruner@dnr.iowa.gov)

*Public Hearing*

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

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

Video/conference call

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

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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:

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

ITEM 1. Rescind subrule 106.7(2) and adopt the following **new** subrule in lieu thereof:

**106.7(2) Regular gun seasons.** Only the following shall be used in the regular gun season: 10-, 12-, 16-, and 20-gauge shotguns shooting single slugs; any handgun or rifle as described in Iowa Code section 481A.48; and any muzzleloaders as described in subrule 106.7(3).

ITEM 2. Amend subrule 106.7(3) as follows:

**106.7(3) Muzzleloader seasons.** Only muzzleloading rifles ~~and, muzzleloading muskets,~~ muzzleloading pistols, and muzzleloading revolvers will be permitted for taking deer during the early muzzleloader season. During the late muzzleloader season, deer may be taken with a muzzleloading rifle, muzzleloading musket, muzzleloading pistol, centerfire muzzleloading revolver, any handgun as defined in 106.7(2), crossbow as described in 106.7(1) "b," or bow as described in 106.7(1). All muzzleloaders as described in this subrule shall only shoot a single projectile between .44 and .775 of an inch.

*a.*—Muzzleloading rifles are defined as flintlock or percussion cap lock muzzleloaded rifles and muskets of not less than .44 caliber and not larger than .775 caliber, shooting single projectiles only.

*b.*—Muzzleloading pistols must be .44 caliber or larger, shoot single projectiles only, and have a 4-inch minimum barrel length.

ITEM 3. Amend subrule 106.7(5) as follows:

**106.7(5) January antlerless-deer-only season.** Bows, crossbows, shotguns, muzzleloaders, rifles, and handguns as described in this rule, ~~and centerfire rifles .24 caliber or larger,~~ may be used during the January antlerless-deer-only season.

ITEM 4. Amend subrule 106.7(6) as follows:

**106.7(6) Prohibited weapons and devices.** The use of dogs, domestic animals, bait, ~~rifles other than muzzleloaded or straight wall cartridge as provided in 106.7(2), 106.7(3), 106.7(5), and 106.10(5), handguns except as provided in 106.7(2) and 106.7(5)~~ firearms except as provided for in this chapter, crossbows except as provided in 106.7(1) ~~and 106.7(3),~~ automobiles, aircraft, or any mechanical conveyance or device, including electronic calls, is prohibited, except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Bait" means grain, fruit, vegetables, nuts, hay, salt, mineral blocks, or any other natural food materials; commercial products containing natural food materials; or by-products of such materials transported to or placed in an area for the intent of attracting wildlife. Bait does not include food placed during normal agricultural activities. "Paraplegic" means an individual with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord. It shall be unlawful for a person, while hunting deer, to carry or have in possession a rifle except as provided in 106.7(2), or 106.7(3), 106.7(5), and 106.10(5). A person in possession of a valid permit to carry weapons may carry a handgun while hunting. However, only handguns as described in 106.7(2) may be used to hunt deer and only when a handgun is a lawful method of take.

ITEM 5. Amend subrule 106.10(5) as follows:

**106.10(5) Method of take and other regulations.** Deer may be taken with ~~shotgun shotguns, bow bows, handguns, straight wall cartridge rifles, or muzzleloaded rifles~~ muzzleloaders as permitted in 571—106.7(481A). Youth hunters using a handgun must be accompanied and under direct supervision throughout the hunt by a responsible person with a valid hunting license who is at least 21 years of age, with the consent of a parent or guardian. The responsible person with a valid hunting license who is at least 21 years of age shall be responsible for the conveyance of the pistol or revolver while the pistol or revolver is not actively being used for hunting. "Direct supervision" means the same as defined in Iowa Code section 483A.27A(4). All participants must meet the deer hunters' orange apparel requirement in Iowa Code section 481A.122. All other regulations for obtaining licenses or hunting deer shall apply.



**ARC 5410C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to holiday rest stops  
and promotion of Iowa agricultural products at interstate rest areas  
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 105, “Holiday Rest Stops,” and Chapter 106, “Promotion of Iowa Agricultural Products at Rest Areas,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 314.27 and 1995 Iowa Acts, chapter 18, section 2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 314.27 and 1995 Iowa Acts, chapter 18, section 2.

*Purpose and Summary*

The proposed amendments to Chapters 105 and 106 correct the name of the Maintenance Bureau and remove district offices from the list of locations from which a form may be requested to sponsor a holiday rest stop or promote an Iowa agricultural product at an interstate rest area. These forms are still available on the Department’s website and from the Maintenance Bureau.

This proposed rule making also requires that any requests be submitted to the Maintenance Bureau. The Maintenance Bureau will approve or deny the requests. The district offices are no longer involved in the administration of these programs.

*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 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 March 2, 2021. 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](mailto:tracy.george@iowadot.us)

*Public Hearing*

If requested, a public hearing to hear oral presentations will be held on March 4, 2021, via conference call from 1 to 2 p.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on March 2, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, 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 subrule 105.2(4) as follows:

**105.2(4) Information.** General information regarding holiday rest stops is available from the ~~Office of Maintenance Bureau~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or the department's website at [www.iowadot.gov](http://www.iowadot.gov).

ITEM 2. Amend subrule 105.4(3) as follows:

**105.4(3) Request.** A request to sponsor a holiday rest stop in an interstate rest area shall be made on Form 810023. This form is available from the ~~department's district offices, the office of maintenance bureau~~ or the department's website.

a. No change.

b. The request shall be submitted to the ~~office of maintenance bureau~~.

c. No change.

ITEM 3. Amend subrule 105.4(4), introductory paragraph, as follows:

**105.4(4) Approval of request.** The request is subject to the approval of the ~~office of maintenance bureau~~.

ITEM 4. Amend subrule 105.5(3) as follows:

**105.5(3) Request.** A request to sponsor a holiday rest stop along a noninterstate primary highway shall be made on Form 810023. This form is available from the ~~department's district offices, the office of maintenance bureau~~ or the department's website.

a. No change.

b. The request shall be submitted to the ~~district office or the office of maintenance bureau~~.

c. No change.

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

ITEM 5. Amend subrule 105.5(4), introductory paragraph, as follows:

**105.5(4)** *Approval of request.* The request is subject to the approval of the ~~district engineer~~ maintenance bureau.

ITEM 6. Amend rule 761—106.3(307) as follows:

**761—106.3(307) Information.** General information regarding agricultural promotions at interstate rest areas is available from the ~~Office of Maintenance Bureau~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or the department's website at [www.iowadot.gov](http://www.iowadot.gov).

ITEM 7. Amend subrule 106.4(1) as follows:

**106.4(1)** A request to promote an Iowa agricultural product at an interstate rest area shall be made on Form 810059. This form is available from the ~~department's district offices, the office of maintenance bureau~~ or the department's website.

*a.* and *b.* No change.

*c.* The request shall be submitted to the ~~office of maintenance bureau~~.

*d.* No change.

ITEM 8. Amend subrule 106.4(2), introductory paragraph, as follows:

**106.4(2)** *Approval of request.* The request is subject to the approval of the ~~office of maintenance bureau~~.

**ARC 5413C**

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Proposing rule making related to transporter plates  
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 424, "Transporter Plates," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 307.12.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 321.58 to 321.60.

*Purpose and Summary*

The proposed amendments update the contact information and the form submission process for transporter plates. Also, the relevant Iowa Code sections are included to clarify the transporter plates application process and the associated fees.

*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.

TRANSPORTATION DEPARTMENT[761](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 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 March 2, 2021. Comments should be directed to:

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

*Public Hearing*

If requested, a public hearing to hear oral presentations will be held on March 4, 2021, via conference call from 10 to 11 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on March 2, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, 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 subrule 424.1(1) as follows:

**424.1(1) Information.** Information and blank forms relating to this chapter may be obtained from ~~and completed forms shall be submitted to the Office of Vehicle and Motor Carrier Services Bureau,~~ Iowa Department of Transportation, by mail at P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3110; by email at [vsuto@iowadot.us](mailto:vsuto@iowadot.us); or from the department's website at [www.iowadot.gov](http://www.iowadot.gov). Completed forms shall be submitted in the form and manner prescribed by the department.

ITEM 2. Amend subrule 424.4(2), introductory paragraph, as follows:

**424.4(2) Application.** The applicant shall accurately and completely fill out an application for special plates on a form prescribed by the department and submit the application ~~to~~ in the manner prescribed by the department with the appropriate fees in accordance with Iowa Code sections 321.58 through 321.60.

**ARC 5411C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to adoption of federal regulations and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 520, "Regulations Applicable to Carriers," Chapter 529, "For-Hire Interstate Motor Carrier Authority," and Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.188, 321.449 and 321.450.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 307.27, 321.188, 321.449 and 321.450.

*Purpose and Summary*

This proposed rule making aligns Chapters 520, 529 and 607 with federal regulation changes occurring during the 2020 federal fiscal year. The proposed amendments also amend Chapter 607 to align with federal regulation changes implementing electronic submission of the federal medical certificate form that certain commercial driver's license (CDL) holders are required to submit as a condition of obtaining or retaining a CDL.

**Federal medical certificate changes.** The proposed amendments to Chapter 607 will bring the rules in line with federal regulations governing the medical certificate form that certain CDL holders are required to submit as a condition of being licensed. Those regulation changes can be found in the Federal Register (FR) Volume 83, No. 120, Pages 28774-28783, June 21, 2018. Currently, a CDL holder must submit a physical copy of the medical certificate form to the Department; however, the Federal Motor Carrier Safety Administration (FMCSA) has adopted regulations and is currently programming a system by which the CDL holder's medical provider will submit the medical certificate to FMCSA, which will then transit the medical certificate electronically to the state driver's license agency. The proposed amendments provide flexibility for the form to continue to be submitted as a physical copy until the programming is ready and FMCSA begins transmitting the form to the Department electronically.

**Annual update.** The remainder of the proposed amendments are part of the regular, annual update for the Department to adopt the most recent updates to the federal regulations. Iowa Code section 321.188 requires the Department to adopt rules to administer CDLs in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383. Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

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

The proposed amendments to Chapter 520 adopt the current CFR dated October 1, 2020, for 49 CFR Parts 107, 171 to 173, 177, 178, 180, 385 and 390 to 399. The proposed amendment to Chapter 529

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

adopts the current CFR dated October 1, 2020, for 49 CFR Parts 365 to 368 and 370 to 379. The proposed amendments to Chapter 607 adopt the current CFR dated October 1, 2020, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR. To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The following paragraphs provide a specific description of the amendments to the FMCSR and the HMR that have become final and effective since the 2020 edition of the CFR that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and Federal HMR

Part 383 (FR Vol. 84, No. 190, Pages 52029-52035, 10-1-19)

This final rule adopts the FMCSR prohibiting states from issuing, renewing, transferring, or upgrading a CDL with a hazardous materials endorsement unless the Transportation Security Administration in the Department of Homeland Security has first conducted a security threat assessment and determined that the applicant does not pose a security risk warranting denial of the hazardous materials endorsement. Effective date: October 31, 2019.

Part 383 (FR Vol. 84, No. 240, Pages 68052-68057, 12-13-19)

This final rule extends the compliance date for the requirement that states request information from the Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) about individuals before completing certain CDL transactions for those drivers. The states' compliance with this requirement is delayed until January 6, 2023. The compliance date extension allows FMCSA the time needed to complete its work on a forthcoming rule making to address the states' use of driver-specific information from the Clearinghouse, and time to develop the information technology platform through which states will electronically request and receive Clearinghouse information. Effective date: December 13, 2019.

Part 383 (FR Vol. 85, No. 23, Pages 6088-6101, 2-4-20)

This interim final rule extends the compliance date for the minimum requirements for entry-level commercial motor vehicle operators to February 7, 2022, to provide FMCSA with additional time to complete development of the Training Provider Registry (TPR) and to allow states additional time to modify their information technology systems and procedures, as necessary, to accommodate receipt of driver-specific data from the TPR. Effective date: February 4, 2020.

Part 385 (FR Vol. 85, No. 36, Pages 10307-10310, 2-24-20)

This final rule amends the HMR to incorporate by reference the April 1, 2019, edition of the Commercial Vehicle Safety Alliance's "North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR Part 173.403." The out-of-service criteria provide uniform enforcement tolerances for roadside inspections to enforcement personnel nationwide, including FMCSA's state partners. Effective date: March 25, 2020.

Parts 171-173, 178 and 180 (FR Vol. 85, No. 91, Pages 27810-27901, 5-11-20)

This final rule amends the HMR to align with international regulations and standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the HMR with recent changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations. Additionally, the final rule adopts several amendments to the HMR that allow for increased alignment with the Transport Canada Transportation of Dangerous Goods Regulations. Effective date: May 11, 2020, except for the amendment to 49 CFR Section 173.21(f), which is effective January 2, 2023.

Parts 385 and 395 (FR Vol. 85, No. 105, Pages 33396-33452, 6-1-20)

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

This final rule revises FMCSA regulations relating to the hours of service regulations to provide greater flexibility for drivers subject to those rules without adversely affecting safety. The rule expands the short haul exception to 150 air-miles and allows a 14-hour work shift to take place as part of the exception; expands the driving window during adverse driving conditions by up to an additional 2 hours; requires a 30-minute break after 8 hours of driving time (instead of on-duty time) and allows an on-duty/not driving period to qualify as the required break; and modifies the sleeper berth exception to allow a driver to meet the 10-hour minimum off-duty requirement by spending at least 7, rather than at least 8, hours of that period in the berth and a minimum off-duty period of at least 2 hours spent inside or outside of the berth, provided the 2 periods total at least 10 hours, and that neither qualifying period counts against the 14-hour driving window. Effective date: September 29, 2020.

Part 396 (FR Vol. 85, No. 160, Pages 50787-50793, 8-18-20)

This final rule rescinds an FMCSA regulation related to the requirement that drivers of passenger-carrying commercial motor vehicles operating in interstate commerce submit, and motor carriers retain, driver-vehicle inspection reports (DVIRs) when the driver has neither found nor been made aware of any vehicle defects or deficiencies (no defect DVIRs). This final rule removes an information collection burden without adversely impacting safety. Effective date: September 17, 2020.

*Fiscal Impact*

The fiscal impact cannot be determined. The federal regulations proposed to be adopted by this rule making were subject to fiscal impact review by either the FMCSA or the Pipeline and Hazardous Materials Safety Administration when the regulations were enacted and were determined not to be cost-prohibitive.

*Jobs Impact*

The proposed amendments may have a slight impact on CDL holders and motor carrier operations; however, the amendments should not negatively impact jobs or employment opportunities because the regulations proposed to be adopted align the rules to federal regulations and streamline the federal medical certificate submission process as well as bring uniformity and consistency to the industry, which should have a positive impact on employment.

*Waivers*

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

*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 March 2, 2021. Comments should be directed to:

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

TRANSPORTATION DEPARTMENT[761](cont'd)

*Public Hearing*

If requested, a public hearing to hear oral presentations will be held on March 4, 2021, via conference call from 9 to 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on March 2, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, 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 paragraph **520.1(1)“a”** as follows:

a. *Motor carrier safety regulations.* The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2019~~ 2020).

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

b. *Hazardous materials regulations.* The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2019~~ 2020).

ITEM 3. Amend paragraph **520.1(2)“c”** as follows:

c. Operators of vehicles for hire, designed to transport 7 or more persons, but fewer than 16, including the driver, must comply with 49 CFR Part 395 of the Federal Motor Carrier Safety Regulations. In addition, operators of vehicles for hire designed to transport 7 or more persons, but fewer than 16, including the driver, are not exempt from logbook requirements afforded the ~~100-air-mile~~ 150-air-mile radius driver under 49 CFR 395.1(e). However, the provisions of 49 CFR Part 395 shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and are regulated by local authorities.

ITEM 4. Amend rule 761—529.1(327B) as follows:

**761—529.1(327B) Motor carrier regulations.** The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2019~~ 2020, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).

ITEM 5. Amend paragraph **607.10(1)“d”** as follows:

d. The following portions of 49 CFR Part 383 (October 1, ~~2019~~ 2020):

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



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

ITEM 6. Amend subrule 607.28(7) as follows:

**607.28(7) Locations.** The skills test for a commercial driver's license shall be given only at specified locations where adequate testing facilities are available. An applicant may contact any driver's license service center for the location of the nearest skills testing center. ~~A skills test by appointment shall be offered only at specified regional test sites.~~

ITEM 7. Amend paragraph **607.37(1)“a”** as follows:

a. The licensee shall make a written self-certification of type of driving as required by rule 761—607.50(321) and, if required, provide a current medical examiner's certificate if required unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration.

ITEM 8. Amend rule 761—607.50(321) as follows:

**761—607.50(321) Self-certification of type of driving and submission of medical examiner's certificate.**

**607.50(1)** No change.

**607.50(2) Submission of medical examiner's certificate by persons certifying to non-excepted interstate driving.** Every person who self-certifies to non-excepted interstate driving must give the department a copy of the person's current medical examiner's certificate, unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration. ~~A person who fails to provide a required medical examiner's certificate~~ The department shall not be allowed to proceed with an initial issuance issue, transfer, renewal renew, or upgrade of a license until the person gives the department receives a medical examiner's certificate that complies with the requirements of this subrule, or unless the person changes the person's self-certification of type of driving to a type other than non-excepted interstate driving. ~~For persons submitting~~ When the department receives a current medical examiner's certificate, the department shall post a medical certification status of “certified” on the person's CDLIS driver's record. A person who self-certifies to a type of driving other than non-excepted interstate shall have no medical certification status on the CDLIS driver's record.

**607.50(3) Maintaining certified status.** To maintain a medical certification status of “certified,” a person who self-certifies to non-excepted interstate driving must give the department a copy of each subsequently issued medical examiner's certificate valid for the person unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration. ~~The copy must be given to the department at least ten days before the previous medical examiner's certificate expires.~~

**607.50(4) CDL downgrade.** If the medical examiner's certificate or medical variance for a person self-certifying to non-excepted interstate driving expires or if the Federal Motor Carrier Safety Administration notifies the department that the person's medical variance was removed or rescinded, the department shall post a medical certification status of “not certified” to the person's CDLIS driver's record and shall initiate a downgrade of the person's commercial driver's license or commercial learner's permit. The medical examiner's certificate of a person who fails to maintain a medical certification status of “certified” as required by subrule 607.50(3) shall be deemed to be expired on the date of expiration of the last medical examiner's certificate filed for the person as shown by the person's CDLIS driver's record. The downgrade will be initiated and completed as follows:

a. The department shall give the person written notice that the person's medical certification status is “not certified” and that the commercial motor vehicle privileges will be removed from the person's commercial driver's license or commercial learner's permit 60 days after the date the medical examiner's certificate or medical variance expired or the medical variance was removed or rescinded unless the ~~person submits to the department~~ receives a current medical certificate or medical variance or the person self-certifies to a type of driving other than non-excepted interstate.

b. If the ~~person submits~~ department receives a current medical examiner's certificate or medical variance before the end of the 60-day period, the department shall post a medical certification status

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

of “certified” on the person’s CDLIS driver’s record and shall terminate the downgrade of the person’s commercial driver’s license or commercial learner’s permit.

c. No change.

d. ~~If the person fails to take the action requirements~~ in either paragraph 607.50(4) “b” or “c” ~~are not met~~ before the end of the 60-day period, the department shall remove the commercial motor vehicle privileges from the person’s commercial driver’s license or commercial learner’s permit and shall leave the person’s medical certification status as “not certified” on the person’s CDLIS driver’s record.

**607.50(5) Establishment or reestablishment of “certified” status.** A person who has no medical certification status or whose medical certification status has been posted as “not certified” on the person’s CDLIS driver’s record may ~~establish or reestablish~~ have the person’s status established or reestablished as “certified” by submitting if the department receives a current medical examiner’s certificate or medical variance to the department. A person who has failed to self-certify to a type of driving or has self-certified to a type of driving other than non-excepted interstate must also make a self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of “certified” on the person’s CDLIS driver’s record.

**607.50(6) Reestablishment of the CDL privilege.** A person whose commercial motor vehicle privileges have been removed from the person’s commercial driver’s license or commercial learner’s permit under the provisions of paragraph 607.50(4) “d” may ~~reestablish~~ have the person’s commercial motor vehicle privileges by reestablished if either of the following methods occurs:

a. ~~Submitting a~~ The department receives the person’s current medical examiner’s certificate or medical variance to the department. A person who has failed to self-certify to a type of driving must also make an initial self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of “certified” on the person’s CDLIS driver’s record and reestablish the commercial motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver’s license or commercial learner’s permit.

b. ~~Self-certifying~~ The person self-certifies to a type of driving other than non-excepted interstate. The department shall then reestablish the commercial motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver’s license or commercial learner’s permit; the person will have no medical certification status on the driver’s CDLIS driver’s record.

**607.50(7) Change of type of driving.** A person may change the person’s self-certification of type of driving at any time. As required by subrule 607.50(2), the department must receive a copy of the person’s current medical examiner’s certificate prepared by a medical examiner for a person certifying to non-excepted interstate driving must give the department a copy of the person’s current medical examiner’s certificate prepared by a medical examiner.

**607.50(8)** No change.

**607.50(9) Medical examiner’s certificate conflict.** As required by 49 CFR Sections 383.71 and 383.73, in the event of a conflict between the medical certification information provided electronically by the Federal Motor Carrier Safety Administration and a paper copy of the medical examiner’s certificate, the medical certification information provided electronically by the Federal Motor Carrier Safety Administration shall supersede.

This rule is intended to implement Iowa Code sections 321.182, 321.188 and 321.207.

**ARC 5434C**

## **VETERINARY MEDICINE BOARD[811]**

### **Notice of Intended Action**

#### **Proposing rule making related to licensure by verification and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to amend Chapter 1, “Description of Organization and Definitions,” and Chapter 6, “Application for Veterinary Licensure,” Iowa Administrative Code.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2627.

*Purpose and Summary*

This rule making implements 2020 Iowa Acts, House File 2627, by allowing a veterinarian licensed in another jurisdiction to more easily obtain an Iowa license, so long as the veterinarian is an Iowa resident or is married to an active duty member of the military who is relocated to Iowa on a permanent basis.

The rule making also establishes application procedures including verifying that the applicant's license from another state complies with the requirements of Iowa Code, requirements for establishing residency in Iowa, and disciplinary actions. Finally, the rule making renumbers existing rules to account for new rule 811—6.6(169) and updates one affected cross reference.

*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 811—Chapter 14.

*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 5, 2021. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
502 East 9th Street  
Des Moines, Iowa 50319  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

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

March 5, 2021  
1 to 2 p.m.

Second Floor Boardroom  
Wallace State Office Building  
Des Moines, Iowa  
Via conference call: 866.685.1580  
Participant access code: 7422903352#

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.

## VETERINARY MEDICINE BOARD[811](cont'd)

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

- ITEM 1. Amend rule **811—1.4(17A,169)**, definition of “Certificate,” as follows:  
“*Certificate*” means a credential issued by the board to practice on an animal as a certified veterinary student pursuant to ~~811—subrule 6.6(3)~~ **811—subrule 6.7(3)**.
- ITEM 2. Renumber rules **811—6.6(169)** and **811—6.7(169)** as **811—6.7(169)** and **811—6.8(169)**.
- ITEM 3. Adopt the following new rule **811—6.6(272C)**:

**811—6.6(272C) Licensure by verification.** Licensure by verification is available in accordance with the following:

**6.6(1) Eligibility.** A person may seek licensure by verification if the person is licensed in at least one other jurisdiction, and either:

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

**6.6(2) Board application.** The applicant must submit the following:

- a. A completed application for licensure by verification.
- b. Payment of the application fee.
- c. A verification form, completed by the licensing authority in the jurisdiction that issued the applicant's license, verifying that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board. This form is available on the board's website.
- d. Proof of residency in the state of Iowa or proof of military member's official permanent change of station in Iowa. Proof of residency includes one or more of the following:

- (1) A residential mortgage, lease, or rental agreement;
- (2) A utility bill;
- (3) A bank statement;
- (4) A paycheck or pay stub;
- (5) A property tax statement;
- (6) A federal or state government document;
- (7) Any other board-approved document that reliably confirms Iowa residency.

e. A copy of the relevant disciplinary documents if another jurisdiction has taken disciplinary action against the applicant.

**6.6(3) Applicants with prior discipline.** If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will not take action on the application until the disciplinary matter has been resolved.

**6.6(4) Applicants with pending licensing complaints or investigations.** If an applicant currently has a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will not take action on the application until the complaint, allegation, or investigation has been resolved.

## VETERINARY MEDICINE BOARD[811](cont'd)

**6.6(5) Limitations.** A person who has had a license revoked, or who has voluntarily surrendered a license while under investigation for unprofessional conduct in another jurisdiction, is ineligible for licensure by verification.

**ARC 5432C****VETERINARY MEDICINE BOARD[811]****Notice of Intended Action****Proposing rule making related to registration or licensure by verification  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to amend Chapter 8, "Auxiliary Personnel," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2627.

*Purpose and Summary*

The proposed rule implements 2020 Iowa Acts, House File 2627, by allowing a veterinary technician registered or licensed in another jurisdiction to more easily obtain an Iowa registration, so long as the veterinary technician is an Iowa resident or is married to an active duty member of the military who is relocated to Iowa on a permanent basis.

The rule also establishes application procedures including verification that the applicant's registration or license from another state complies with the requirements of Iowa Code, requirements for establishing residency in Iowa, and disciplinary actions.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*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 5, 2021. Comments should be directed to:

## VETERINARY MEDICINE BOARD[811](cont'd)

Colin Tadlock  
 Iowa Department of Agriculture and Land Stewardship  
 Wallace State Office Building  
 502 East 9th Street  
 Des Moines, Iowa 50319  
 Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

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

March 5, 2021  
 1 to 2 p.m.

Second Floor Boardroom  
 Wallace State Office Building  
 Des Moines, Iowa  
 Via conference call: 866.685.1580  
 Participant access code: 7422903352#

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 Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Adopt the following **new** rule 811—8.11(272C):

**811—8.11(272C) Registration as veterinary technician by verification.** Registration by verification for a veterinary technician is available in accordance with the following:

**8.11(1) Eligibility.** A person may seek registration by verification if the person is registered or licensed in at least one other jurisdiction, and either:

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

**8.11(2) Board application.** The applicant must submit the following:

- a. A completed application for registration by verification.
- b. Payment of the application fee.
- c. A verification form, completed by the licensing/registration authority in the jurisdiction that issued the applicant's license or registration, verifying that the applicant's license or registration in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing/registration authority to the board. This form is available on the board's website.

d. Proof of residency in the state of Iowa or proof of military member's official permanent change of station in Iowa. Proof of residency includes one or more of the following:

- (1) A residential mortgage, lease, or rental agreement;
- (2) A utility bill;
- (3) A bank statement;
- (4) A paycheck or pay stub;

## VETERINARY MEDICINE BOARD[811](cont'd)

- (5) A property tax statement;
- (6) A federal or state government document;
- (7) Any other board-approved document that reliably confirms Iowa residency.
  - e. Proof of passing Iowa's veterinary technician state examination.
  - f. A copy of the relevant disciplinary documents if another jurisdiction has taken disciplinary action against the applicant.

**8.11(3) Applicants with prior discipline.** If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will not take action on the application for registration until the matter has been resolved.

**8.11(4) Applicants with pending licensing/registration complaints or investigations.** If an applicant currently has a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will not take action on the application for registration until the complaint, allegation, or investigation has been resolved.

**8.11(5) Limitations.** A person who has had a license/registration revoked, or who has voluntarily surrendered a license/registration while under investigation for unprofessional conduct in another jurisdiction, is ineligible for registration by verification.

**ARC 5433C**

## VETERINARY MEDICINE BOARD[811]

### Notice of Intended Action

#### Proposing rule making related to work experience in jurisdictions without licensure requirements and providing an opportunity for public comment

The Board of Veterinary Medicine hereby proposes to amend Chapter 8, "Auxiliary Personnel," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 169.5.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2627.

#### *Purpose and Summary*

The proposed rule implements 2020 Iowa Acts, House File 2627, by providing the Board with the ability to register a veterinary technician who is moving to Iowa from another jurisdiction that does not license or register these types of positions. An individual who holds at least three years of work experience in another state would be eligible to register in Iowa more easily under the proposed rule.

The rule establishes application procedures including documentation of the individual's prior work experience, proof of passing the national and state veterinary technician examinations, verification that the work in another state was similar in scope to what Iowa requires in order to register an individual, and proof of Iowa residency.

#### *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.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*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 5, 2021. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

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

March 5, 2021  
1 to 2 p.m.

Second Floor Boardroom  
Wallace State Office Building  
Des Moines, Iowa  
Via conference call: 866.685.1580  
Participant access code: 7422903352#

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Adopt the following **new** rule 811—8.12(272C):

**811—8.12(272C) Applicants with work experience in jurisdictions without licensure requirements.**

**8.12(1) Work experience.** An applicant for initial registration who has relocated to Iowa from another jurisdiction that did not require a professional license/registration to practice in the profession may be considered to have met any educational and training requirements if the person has at least three years of work experience with a scope of practice substantially similar to that of the profession for which registration in Iowa is sought. The three years of work experience must be within the four years preceding the date of application for initial registration. The applicant must satisfy all other requirements, including passing any required examinations, to receive a license.

**8.12(2) Board application.** The applicant must submit the following:

- a. A completed application for registration through work experience.



## VETERINARY MEDICINE BOARD[811](cont'd)

- b. Payment of the application fee.
- c. Proof of passing both the veterinary technician national examination and Iowa's veterinary technician state examination.

**8.12(3) Required documentation.** An applicant who wishes to substitute work experience in lieu of satisfying applicable education or training requirements shall carry the burden of providing all of the following by submitting relevant documents as part of a completed registration application:

- a. Proof of Iowa residency, which may include one or more of the following:
  - (1) A residential mortgage, lease, or rental agreement;
  - (2) A utility bill;
  - (3) A bank statement;
  - (4) A paycheck or pay stub;
  - (5) A property tax statement;
  - (6) A document issued by the federal or state government;
  - (7) Any other board-approved document that reliably confirms Iowa residency.
- b. Proof of three or more years of work experience within the four years preceding the application for registration, which may include one or more of the following:
  - (1) A letter from the applicant's prior employer documenting the dates of employment;
  - (2) Paychecks or pay stubs;
  - (3) If the applicant is self-employed, business documents filed with the secretary of state; or
  - (4) Any other board-approved evidence of sufficient work experience.
- c. Proof that the work experience was in a practice with a scope of practice substantially similar to that for the registration sought in Iowa, which must include:
  - (1) A written statement by the applicant detailing the scope of practice; and
  - (2) Business or marketing materials detailing the services provided.
- d. Proof that a professional license/registration was not required in the other state, which may include:
  - (1) Copies of applicable laws;
  - (2) Materials from a website operated by a governmental entity; or
  - (3) Materials from a national professional association.

**ARC 5431C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rule making related to prescribing and dispensing drugs to clients and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to amend Chapter 12, "Standards of Practice," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 169.

*Purpose and Summary*

The proposed amendment allows a licensed veterinarian to prescribe and dispense a drug directly to a customer upon request, unless prohibited by state or federal law. The proposed new language does not apply to livestock.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*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 2, 2021. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.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 12.3(1) as follows:

**12.3(1)** All prescription drugs, medications and controlled substances must be purchased, maintained, handled, prescribed and dispensed in compliance with state and federal requirements including but not limited to the requirements of the Iowa board of pharmacy, the U.S. Occupational Safety and Health Administration, the U.S. Department of Agriculture, the U.S. Food and Drug Administration, the U.S. Environmental Protection Agency and the U.S. Drug Enforcement Administration.

*a.* A valid veterinarian/client/patient relationship must be established before prescription drugs or medications may be dispensed or a prescription released. All drugs or medications administered, prescribed or dispensed must be documented in the patient’s medical record. The sale of veterinary prescription drugs or medications or the extra-label use of any drug, medication or product by a licensed veterinarian without a valid veterinarian/client/patient relationship is not permissible.

## VETERINARY MEDICINE BOARD[811](cont'd)

b. If a veterinarian prescribes a drug for the client's animal, the veterinarian shall, upon request, provide the prescription to the client, unless prohibited by state or federal law or to prevent inappropriate use. The veterinarian may charge a fee for issuing the prescription. This paragraph does not apply to livestock as defined in Iowa Code section 717.1(4).

**ARC 5415C**

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

**Adopted and Filed**

**Rule making related to adoption by reference of NIST handbooks 44, 130 and 133**

The Agriculture and Land Stewardship Department hereby amends Chapter 85, “Weights and Measures,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 189.2 and 215.24.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 189 and 215.

*Purpose and Summary*

This rule making adopts by reference National Institute of Standards and Technology (NIST) Handbooks 44, 130 and 133, amended or revised as of January 1, 2020. The anticipated effect on stakeholders of the adoption of the most recent versions of these handbooks is minimal, although there may be some impact on commercial dispensers of hydrogen fuel and ethanol-gasoline blends. The Department routinely adopts the latest versions of these handbooks every five years.

In 2019, the 88th General Assembly enacted House File 767, which added hydrogen fuel to those fuels subject to taxation under Iowa Code chapter 452A. This legislation also required the licensing and inspection of commercial dispensers of hydrogen fuel. Even though there are no commercial dispensers of hydrogen fuel in Iowa at this time, the Department anticipates that some will be in operation soon. The most recent versions of NIST Handbooks 44, 130 and 133 cover inspection and testing procedures for dispensers of hydrogen fuel. The adoption by reference of the most recent versions of these handbooks will ensure equity and safety for Iowa consumers of hydrogen fuel in the future.

The Department’s adoption by reference of the updated version of NIST Handbook 130 also relates to seasonal summer sales of E-15 gasoline. In 2019, the Environmental Protection Agency (EPA) withdrew its prohibition of the sale of E-15 gasoline from June 1 to September 15, creating a “vapor pressure” allowance for the summer months. NIST requirements regarding E-15 gasoline were still in the process of revision at the time of the EPA’s regulatory change, and the Department was still following NIST standards that enforced the summer sales prohibition. To address this inconsistency, the Department in 2019 issued a waiver of its own rules on the prohibition of summer sales of E-15 gasoline that covered the period from June 1 to September 15, 2019. In February 2020, the Department adopted **ARC 4947C** (IAB 2/26/20), which adopted by reference only that part of NIST Handbook 130 that addressed gasoline-ethanol blends, namely, Part IV, Section G, 2.1.2. Since the adoption of **ARC 4947C**, the Department has determined that the entirety of Handbook 130 may be adopted by reference because NIST has completed updating all its requirements, including those that affect seasonal summer sales of E-15 gasoline.

Other updated sections of NIST Handbooks 44, 130 and 133 focus on matters such as tractor hydraulic fluid labeling and plywood density for which the Department does not have active inspection programs; however, the Department may choose to investigate complaints about these things on an individual basis. The most recent versions of NIST Handbooks 44, 130 and 133 provide definitive standards for the Department’s investigation of complaints and enforcement of NIST standards.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5108C**. A public hearing was held on August 19, 2020, at 9 a.m. in the Second

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

Floor Conference Room, Wallace State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on January 1, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the 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).

*Effective Date*

This rule making will become effective on March 17, 2021.

The following rule-making action is adopted:

Amend rule 21—85.39(189,215) as follows:

**21—85.39(189,215) Weights and measures.**

**85.39(1)** The specifications, tolerances and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Institute of Standards and Technology and published in National Institute of Standards and Technology Handbook 44 amended or revised as of ~~July 1, 2013~~ January 1, 2020, shall be the specifications, tolerances and regulations for commercial weighing and measuring devices in the state of Iowa, except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship and not rescinded.

**85.39(2)** The National Institute of Standards and Technology (NIST) ~~Handbooks Handbook 130 and, Uniform Laws and Regulations in the Areas of Legal Metrology and Fuel Quality, Handbook 133: Weights and Measures Law, Packaging and Labeling, Method of Sale, Type Evaluation, Checking the Net Contents of Packaged Goods, and Uniform Engine Fuels and Automotive Lubricants Regulation,~~ and all supplements to these handbooks, as published by the National Institute of Standards and Technology amended or revised as of ~~July 1, 2013~~ January 1, 2020, are adopted in their entirety by reference except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.

~~a.—The National Institute of Standards and Technology (NIST) Handbook 130, Part IV, Section G, Section 2. Standard Specifications, 2.1.2. Gasoline-Ethanol Blends, as of November 1, 2020, is adopted in its entirety by reference except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.~~

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

~~b. Reserved.~~

This rule is intended to implement Iowa Code sections 189.9, 189.13, 189.17, 215.14, 215.18 and 215.23.

[Filed 1/15/21, effective 3/17/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5416C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Adopted and Filed**

**Rule making related to dyslexia specialist endorsement**

The Educational Examiners Board hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

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

*Purpose and Summary*

2020 Iowa Acts, Senate File 2356, directs the Board to collaborate with the Iowa Reading Research Center to create a dyslexia specialist endorsement. The adopted new subrule 13.28(36) is the result of that collaboration. This subrule creates the dyslexia specialist endorsement for Iowa licensed teachers.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 2, 2020, as **ARC 5293C**. A public hearing was held on December 30, 2020, at 1 p.m. in the Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa.

One person spoke at the public hearing in support of the proposed rule making. The Board also received 70 written comments in support of the proposed rule making, primarily from parents of students with dyslexia, as well as educators. The comments stressed the need for qualified educators to work with these students. Some asked clarifying questions about the implementation of the rule making.

In the introductory paragraph of the new subrule 13.28(36), the Board added language allowing applicants who have achieved dyslexia certification in another state prior to the effective date of this rule making to apply for a certification review. No other changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on January 14, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on March 17, 2021.

The following rule-making action is adopted:

Adopt the following **new** subrule 13.28(36):

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

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

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

(1) Knowledge of dyslexia. The dyslexia specialist will have knowledge of dyslexia and:

1. Understand the tenets of the International Dyslexia Association's definition of dyslexia, including the neurobiological nature and cognitive-linguistic correlates.

2. Identify distinguishing characteristics of dyslexia and commonly co-occurring disorders, including dysgraphia, dyscalculia, attention deficit hyperactivity disorder, expressive language disorders, receptive language disorders, and others.

3. Recognize that dyslexia may present differently along a continuum of severity and impact depending upon age, grade, and compensatory factors.

4. Understand federal and state laws that pertain to dyslexia, including use of the word "dyslexia" within school settings and documentation.

5. Understand common misconceptions regarding characteristics of and interventions for dyslexia.

(2) Psychology of language and reading. The dyslexia specialist will understand the highly complex processes by which children learn to speak, read, and write, including language acquisition, linguistics, and the structure of written language, including phonological processing, phonics, orthography, morphology, syntax, and semantics, as well as the relationship of these components to typical and atypical reading and writing development and instruction for students with dyslexia.

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

1. Instruction utilizing multisensory and multimodal strategies (visual, auditory, kinesthetic, and tactile), systematic and cumulative instruction, direct instruction, diagnostic and prescriptive teaching, as well as synthetic and analytic instruction.

2. Instructional approaches supported by the science of reading for the following areas: phonological processing, phonics, fluency, comprehension, vocabulary, spelling, and writing.

3. Creation of a dyslexia-friendly learning environment (within or outside the regular classroom) utilizing evidence-based accommodations and modifications to meet the needs of students with dyslexia,

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

including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia.

4. Use of data to determine effectiveness of the instruction and curriculum along with student responsiveness to it.

(4) Assessment, diagnosis, and evaluation. The dyslexia specialist will be confident using a variety of formal assessment tools and practices to evaluate students' reading and writing abilities in a variety of domains. The dyslexia specialist will:

1. Demonstrate an understanding of the literature and research related to assessments and their purposes (including the strengths and limitations of assessments) and assessment tools for screening, diagnosis, progress monitoring, and measuring outcomes.

2. Demonstrate an understanding of the signs and symptoms of reading difficulties, including but not limited to dyslexia; and also demonstrate an understanding of norms and student benchmarks.

3. Select, administer, and interpret assessments for specific purposes, including screening students at risk for dyslexia and identifying students who display a profile of dyslexia, and:

- Understand the features of standardized norm-referenced assessments.
- Understand the importance of selecting reliable and valid assessments to evaluate typical and atypical reading development.

- Interpret various scores derived from standardized norm-referenced and criterion-referenced assessments.

4. Use assessment information to plan and evaluate instruction, including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia and other difficulties. This will include the use of multiple data sources for analysis, instructional planning, examining the effectiveness of specific intervention practices, and examining students' responses to interventions.

5. Communicate assessment results and implications to a variety of audiences, including staff, parents, and students.

6. Understand appropriate IEP goals and Section 504 plans for students who display characteristics of dyslexia.

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

1. Supervised administration of norm-referenced literacy assessments.

2. Practice composing a report of literacy assessment results that will include interpretation of the results and instructional recommendations.

3. Supervised delivery of systematic, explicit, and multisensory intervention for students with characteristics of dyslexia.

4. Practice composing a report of students' response to intervention.

[Filed 1/20/21, effective 3/17/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5417C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

**Rule making related to child support recovery unit administrative appeal procedures**

The Human Services Department hereby amends Chapter 9, "Public Records and Fair Information Practices," Chapter 95, "Collections," Chapter 96, "Information and Records," Chapter 97, "Collection



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

Services Center,” Chapter 98, “Support Enforcement Services,” Chapter 99, “Support Establishment and Adjustment Services,” and Chapter 100, “Child Support Promoting Opportunities for Parents Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapter 17A and sections 217.6, 252B.3 to 252B.5 and 252B.9.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 17A and sections 217.6, 252B.3 to 252B.5 and 252B.9.

*Purpose and Summary*

This rule making amends Chapters 9, 95, 96, 97, 98, 99 and 100 to maintain current Child Support Recovery Unit (CSRU) administrative appeal procedures in light of the recent changes to the appeal rules in Chapter 7. This rule making also reorganizes various rules in Chapters 95 and 98. These amendments will better organize those chapters by keeping all collection rules in Chapter 95 and all enforcement rules in Chapter 98. This rule making adopts new rule 441—98.84(252B) and rescinds rule 441—99.26(252F) to remove outdated and duplicative language. None of the amendments make changes to current CSRU procedures.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5274C**. 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 Human Services on January 14, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*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 April 1, 2021.

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

The following rule-making actions are adopted:

ITEM 1. Amend subrule 9.10(10) as follows:

**9.10(10) Child support recovery.** The child support recovery unit has access to information from most department records for the purpose of establishing and enforcing support obligations. Information about absent parents and recipients of child support services is released according to the provisions of Iowa Code chapters 234, 252A, 252B, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, 252K, 598, 600B, and any other support chapter. Information is also released to consumer reporting agencies as specified in rule ~~441—95.12(252B)~~ 441—98.116(252B).

ITEM 2. Rescind the definitions of “Consumer reporting agency,” “Delinquent support,” “Federal nontax payment,” and “Payor of income” in rule ~~441—95.1(252B)~~.

ITEM 3. Amend rule ~~441—95.3(252B)~~, introductory paragraph, as follows:

**441—95.3(252B) Crediting of current and delinquent support.** The amounts received as support from the obligor shall be credited as the required support obligation for the month in which they are collected. Any excess shall be credited as delinquent payments and shall be applied to the immediately preceding month, and then to the next immediately preceding month until all excess has been applied. Funds received as a result of federal tax offsets shall be credited according to rule ~~441—95.7(252B)~~ 441—98.84(252B).

ITEM 4. Rescind and reserve rules ~~441—95.6(252B)~~, ~~441—95.7(252B)~~, ~~441—95.8(96)~~ and ~~441—95.12(252B)~~.

ITEM 5. Amend paragraph **95.13(3)“b”** as follows:

*b.* The time limit for initiating an administrative appeal shall be governed by ~~441—subrule 7.5(4)~~ 7.4(3). The time limit provided in ~~441—subrule 7.5(4)~~ 7.4(3) shall start with the date that a written decision as required by subrule 95.13(2) is issued.

ITEM 6. Adopt the following **new** rule ~~441—95.26(17A)~~:

**441—95.26(17A) Right of appeal.**

**95.26(1)** Under this chapter, an administrative appeal pursuant to 441—Chapter 7 shall be limited to the following issues:

*a.* A person is not entitled to a support payment in full or in part because of the date of collection, as provided under rule ~~441—95.13(17A)~~, or a dispute based on the date of collection has not been acted on in a timely manner.

*b.* A termination in services has occurred as provided in rule ~~441—95.14(252B)~~.

**95.26(2)** A hearing shall not be granted under 441—Chapter 7 when the appellant has a complaint about child support recovery unit collections actions other than those described in this rule. This includes the collection of an annual fee for child support services as specified in Iowa Code chapter 252B.

This rule is intended to implement Iowa Code sections 17A.12 to 17A.20.

ITEM 7. Adopt the following **new** rule ~~441—95.27(17A)~~:

**441—95.27(17A) Appeal record.** The record in an administrative appeal under this rule shall include, in addition to those materials specified in Iowa Code section 17A.12(6), the notice of appeal, all evidence received or considered and all other submissions, including the verbatim record of the hearing.

This rule is intended to implement Iowa Code section 17A.12.

ITEM 8. Adopt the following **new** rule ~~441—96.7(17A)~~:

**441—96.7(17A) Right of appeal.** Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

ITEM 9. Amend ~~441—Chapter 96~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A and section 252B.9.

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

ITEM 10. Adopt the following new rule 441—97.8(17A):

**441—97.8(17A) Right of appeal.** Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

ITEM 11. Amend **441—Chapter 97**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A and sections 252B.13A through 252B.17 and ~~section~~ 252D.17.

ITEM 12. Amend **441—Chapter 98**, chapter preamble, as follows:

PREAMBLE

~~In addition to the enforcement services described in 441—Chapter 95, “Collections,”~~ the The child support recovery unit is charged with the responsibility to provide the enforcement services delineated in this chapter.

ITEM 13. Adopt the following new rule 441—98.47(96):

**441—98.47(96) Child support intercept of unemployment insurance benefits.** When the department of workforce development notifies the child support recovery unit that an individual who owes a child support obligation being enforced by the unit has been determined to be eligible for unemployment insurance benefits, the unit will enforce a child support obligation that is owed by an obligor but is not being met by intercept of unemployment insurance benefits. “Owed but not being met” means either current child support not being met or arrearages that are owed.

**98.47(1) Withholding.** The child support recovery unit shall intercept unemployment insurance benefits by initiating a withholding of income pursuant to Iowa Code chapter 252D and this division. The amount to be withheld through a withholding of unemployment insurance benefits shall not exceed the amount specified in 15 U.S.C. 1673(b).

**98.47(2) Provision of receipt.** A receipt of the payments intercepted through unemployment insurance benefits will be provided once a year, upon the obligor’s request to the child support recovery unit.

This rule is intended to implement Iowa Code section 96.3 and 15 U.S.C. 1673(b).

ITEM 14. Amend **441—Chapter 98, Division VI**, title, as follows:

DIVISION VI  
DEBTOR OFFSET

ITEM 15. Renumber rule **441—98.81(252B)** as **441—98.82(252B)**.

ITEM 16. Adopt the following new rule 441—98.81(252B):

**441—98.81(252B) Definitions.**

“*Delinquent support*” means a payment, or portion of a payment, including interest, not received by the clerk of the district court or other designated agency at the time it was due. In addition, delinquent support shall also include payments for parental liabilities not received as specified pursuant to rule 441—156.2(234).

“*Federal nontax payment*” means an amount payable by the federal government which is subject to administrative offset for support under the federal Debt Collection Improvement Act, Pub.L. No. 104-134.

“*Mistake of fact*” means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral.

This rule is intended to implement Iowa Code chapter 252B.

ITEM 17. Amend renumbered subrule 98.82(3) as follows:

**98.82(3) Appeal process.** An obligor may contest the department’s claim by submitting a written request to the department. A hearing shall be granted pursuant to rules in 441—Chapter 7 if the obligor’s request is submitted within 15 days of the date of the preoffset notice. Except as specifically provided

HUMAN SERVICES DEPARTMENT[441](cont'd)

in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.

ITEM 18. Amend renumbered subrule 98.82(4) as follows:

**98.82(4) *Joint owner.*** A joint owner's proportionate share of the payment, as determined by the department of administrative services, shall be released unless other claims are made on that portion of the payment. The department must receive a request for release of a joint owner's share within 15 days of the date of the preoffset notice. The request may be made by either owner.

ITEM 19. Amend renumbered subrule 98.82(7) as follows:

**98.82(7) *Percentage of payment offset.*** The amount of offset shall be 50 percent of the total payment due the obligor, unless the payment results from lottery winnings, from gambling winnings, from sports wagering winnings, or from a payment for a claim under treasurer of state rules on unclaimed property at 781—Chapter 9, in which case the amount of offset shall be 100 percent of the payment. The amount taken shall not exceed the delinquent amount owed by the obligor.

ITEM 20. Adopt the following new rule 441—98.83(252B):

**441—98.83(252B) *Offset against state income tax refund or rebate.*** The department will make a claim against an obligor's state income tax refund or rebate when a support payment is delinquent as set forth in 11—Chapter 40. A claim against an obligor's state income tax refund or rebate shall apply to support which the department is attempting to collect.

**98.83(1)** By the first day of each month, the department shall submit to the department of administrative services a list of obligors who are delinquent at least \$50 in support payments.

**98.83(2)** When the department claims an obligor's state income tax refund or rebate, the department shall send a preoffset notice to the obligor to inform the obligor of the amount the department intends to claim and apply to support. The department shall send a preoffset notice when:

*a.* The department of administrative services notifies the department that the obligor is entitled to a state income tax refund or rebate; and

*b.* The obligor has a delinquency of \$50 or greater.

**98.83(3)** When the obligor wishes to contest a claim, a written request shall be submitted to the department within 15 days of the date of the preoffset notice. When the request is received within the 15-day limit, a hearing shall be granted pursuant to rules in 441—Chapter 7. Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.

**98.83(4)** The spouse's proportionate share of a joint return filed with an obligor, as determined by the department of revenue, shall be released by the department of revenue unless other claims are made on that portion of the joint income tax refund. The request for release of a spouse's proportionate share shall be received by the department within 15 days of the date of the preoffset notice.

**98.83(5)** The department shall refund any amount incorrectly offset to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.

**98.83(6)** The department shall notify an obligor of the final decision regarding the claim against the tax refund or rebate by sending a final disposition of support recovery claim notice to the obligor.

**98.83(7)** Offsets shall be applied as provided in rule 441—95.3(252B).

This rule is intended to implement Iowa Code sections 8A.504, 252B.3, 252B.4 and 252B.5(4).

ITEM 21. Adopt the following new rule 441—98.84(252B):

**441—98.84(252B) *Offset against federal income tax refund and federal nontax payment.*** The department will make a claim against an obligor's federal income tax refund or federal nontax payment when delinquent support is owed. For purposes of this offset, delinquent support shall include the entire balance of a judgment for accrued support, as provided in Iowa Code section 252B.5(4).

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

**98.84(1) Amount of assigned support.** If the delinquent support is assigned to the department, the amount of delinquent support shall be at least \$150, calculated by combining the assigned delinquent support in all of the obligor's cases in which the assigned delinquent support is at least \$50.

**98.84(2) Amount of nonassigned support.** If delinquent support is not assigned to the department, the claim shall be made if the amount of delinquent support is at least \$500, calculated by combining the nonassigned delinquent support in all of the obligor's cases in which the nonassigned delinquent support is at least \$50.

*a.* The amount distributed to an obligee shall be the amount remaining following payment of a support delinquency assigned to the department. The department shall distribute to an obligee the amount collected from an offset according to subrule 98.84(9) within the following time frames:

(1) Within six months from the date the department applies an offset amount from a joint income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 98.84(8), whichever is later, or

(2) Within 30 days from the date the department applies an offset amount from a single income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 98.84(8), whichever is later.

(3) However, the department is not required to distribute until it has received the amount collected from an offset from the federal Department of the Treasury.

*b.* Federal nontax payment offsets shall be applied as provided in rule 441—95.3(252B).

**98.84(3) Notification to federal agency.** The department shall, by October 1 of each year or at times as permitted or specified by federal regulations, submit a notification(s) of liability for delinquent support to the federal Office of Child Support Enforcement.

**98.84(4) Preoffset notice and review.** Each obligor who does not have an existing support debt on record with the federal Office of Child Support Enforcement will be sent a preoffset notice in writing, using address information provided to the federal Office of Child Support Enforcement, stating the amount of the delinquent support certified for offset.

*a.* Individuals whose names were submitted for federal offset who wish to dispute the offset must notify the department in writing within the time period specified in the preoffset notice.

*b.* Upon receipt of a complaint from the individual disputing the submission for offset, the child support recovery unit shall conduct a review to determine if there is a mistake of fact and respond to the individual in writing within ten days.

**98.84(5) Recalculation of delinquency.** When the records of the department differ with those of the obligor for determining the amount of the delinquent support, the obligor may provide and the department will accept documents verifying modifications of the order, and records of payments made pursuant to state law, and will recalculate the delinquency.

**98.84(6) Notification of modification or elimination.** The department shall notify the federal Office of Child Support Enforcement, within time frames established by the federal Office of Child Support Enforcement, of any modification or elimination of an amount referred for offset.

**98.84(7) Failure to timely respond.** When an individual does not respond to the preoffset notice within the specified time even though the department later agrees a certification error was made, the individual must wait for corrective action as specified in subrule 98.84(8).

**98.84(8) Offset notice, appeal, and refund.** The federal Department of the Treasury will send notice that a federal income tax refund or federal nontax payment owed to the obligor has been intercepted. When the unit receives information from the federal Office of Child Support Enforcement regarding the offset, or when the individual whose name was submitted for federal offset notifies the department that the individual has received an offset notice, the department shall issue to that individual Form 470-3684, Appeal Rights for Federal Offsets.

*a.* The individual whose name was submitted for federal offset shall have 15 days from the date of the notice to contest the offset by initiating an administrative appeal pursuant to 441—Chapter 7. Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.

HUMAN SERVICES DEPARTMENT[441](cont'd)

*b.* The department shall refund the incorrect portion of a federal income tax offset or federal nontax payment offset within 30 days following verification of the offset amount. Verification shall mean a listing from the federal Office of Child Support Enforcement containing the obligor's name and the amount of tax refund or nontax payment to which the obligor is entitled. The date the department receives the federal listing will be the beginning day of the 30-day period in which to make a refund.

*c.* The department shall refund the amount incorrectly set off to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.

**98.84(9) Application of offsets.** Offsets of federal income tax refunds shall be applied to delinquent support only. The department shall first apply the amount collected from an offset to delinquent support assigned to the department under Iowa Code chapters 234 and 239B. The department shall then apply any amount remaining in equal proportions to delinquent support due individuals receiving nonassistance services.

This rule is intended to implement Iowa Code sections 252B.3, 252B.4, and 252B.5.

ITEM 22. Amend **441—Chapter 98, Division IX**, heading, as follows:

DIVISION IX ~~X~~  
EXTERNAL ENFORCEMENT

ITEM 23. Adopt the following **new 441—Chapter 98**, Division IX heading:

DIVISION IX  
CONSUMER REPORTING AGENCIES

ITEM 24. Adopt the following **new** rule 441—98.116(252B):

**441—98.116(252B) Procedures for providing information to consumer reporting agencies.** The child support recovery unit shall make information available to consumer reporting agencies regarding the amount of delinquent support owed by a responsible person only in cases where the delinquent support exceeds \$1,000. However, before the unit will release the information to a consumer reporting agency, the agency must meet the requirements for a nationwide consumer reporting agency under Iowa Code section 252B.9(3)“j.”

**98.116(1) Request of information.** Agencies may request the information from the Bureau of Collections, Department of Human Services, 400 SW Eighth Street, Suite H, Des Moines, Iowa 50309-4691. Requests for information about an individual shall include the individual's name and identifying information such as a social security number or birth date. Agencies may also request a listing of all obligors owing support in excess of \$1,000.

**98.116(2) Notice of proposed release of information.** A notice of proposed release of information shall be sent to the last-known address of the responsible person 30 calendar days prior to the release of the support arrearage information to a consumer reporting agency. This notice shall explain the information to be released and the methods available for contesting the accuracy of the information.

**98.116(3) Contesting proposed release of information.** The responsible person may, within 15 calendar days of the date of the notice of proposed release of information, request a conference with the child support recovery officer to contest the accuracy of the information to be given to the consumer reporting agency. In contested cases no referral shall be made to the consumer reporting agency until after the amount of overdue support has been confirmed to exceed \$1,000.

This rule is intended to implement Iowa Code section 252B.9(3).

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 25. Reserve rules **441—98.123** to **441—98.130**.

ITEM 26. Adopt the following **new 441—Chapter 98**, Division XI heading:

DIVISION XI  
APPEALS

ITEM 27. Adopt the following **new** rule 441—98.131(17A):

**441—98.131(17A) Right of appeal.**

**98.131(1)** Under this chapter, an administrative appeal pursuant to 441—Chapter 7 shall be limited to the following issues:

*a.* A claim or offset is contested as provided in subrule 98.82(3), 98.83(3), or 98.84(8) by a person's alleging a mistake of fact.

*b.* A name has been certified for passport sanction as provided in Iowa Code section 252B.5.

**98.131(2)** A hearing shall not be granted under 441—Chapter 7 when the appellant has a complaint about child support recovery enforcement matters other than those described in this rule.

This rule is intended to implement Iowa Code chapter 17A.

ITEM 28. Adopt the following **new** rule 441—98.132(17A):

**441—98.132(17A) Appeal record.** The record in an administrative appeal under this rule shall include, in addition to those materials specified in Iowa Code section 17A.12(6), the notice of appeal, all evidence received or considered and all other submissions, including the verbatim record of the hearing.

This rule is intended to implement Iowa Code chapter 17A.

ITEM 29. Amend **441—Chapter 98**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 96.3 and chapter 252D.

ITEM 30. Rescind and reserve rule **441—99.26(252F)**.

ITEM 31. Reserve rules **441—99.118** to **441—99.120**.

ITEM 32. Adopt the following **new 441—Chapter 99**, Division VII heading:

DIVISION VII  
APPEALS

ITEM 33. Adopt the following **new** rule 441—99.121(17A):

**441—99.121(17A) Right of appeal.** Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

This rule is intended to implement Iowa Code chapter 17A.

ITEM 34. Adopt the following **new** rule 441—100.8(17A):

**441—100.8(17A) Right of appeal.** Department actions under this chapter are not subject to administrative appeal under 441—Chapter 7.

This rule is intended to implement Iowa Code chapter 17A.

[Filed 1/15/21, effective 4/1/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5418C****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to billing of physician assistant services**

The Human Services Department hereby amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” and Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4.

*Purpose and Summary*

This rule making implements 2020 Iowa Acts, Senate File 2357, which allows physician assistants to bill independently for services provided. Under the current rules, a physician assistant bills for services provided through a supervising physician.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5276C**. 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 Human Services on January 14, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*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 April 1, 2021.



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

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—77.49(249A) as follows:

**441—77.49(249A) Physician assistants.** All physician assistants licensed to practice in the state of Iowa are eligible for participation in the program. Physician assistants duly licensed to practice in other states are also eligible for participation. ~~Enrollment is for the purpose of providing professional services for Medicaid members including orders and referrals, as required under Public Law 111-148, Section 6401, otherwise known as the Patient Protection and Affordable Care Act (PPACA). Enrollment will not affect the provider's payment arrangements with facilities or supervising providers.~~

This rule is intended to implement Iowa Code section 249A.4.

ITEM 2. Amend paragraph **78.1(9)“d”** as follows:

*d.* Payment will be approved for tasks related to a resident receiving nursing facility care which are performed by a ~~physician's employee who is a~~ nurse practitioner, clinical nurse specialist, or physician assistant as specified in 441—paragraph 81.13(13)“*e.*” On-site supervision of the physician is not required for these services.

ITEM 3. Amend paragraph **78.1(13)“a”** as follows:

*a.* Auxiliary personnel are nurses, ~~physician's assistants~~, psychologists, social workers, audiologists, occupational therapists and physical therapists.

ITEM 4. Amend paragraph **78.1(13)“c”** as follows:

*c.* Direct personal supervision in the office setting means the physician must be present in the same office suite, not necessarily the same room, and be available to provide immediate assistance and direction.

Direct personal supervision outside the office setting, such as the member's home, hospital, emergency room, or nursing facility, means the physician must be present in the same room as the auxiliary person.

Advanced registered nurse practitioners certified under board of nursing rules in 655—Chapter 7 performing services within their scope of practice are exempt from the direct personal supervision requirement for the purpose of reimbursement to the employing physicians. In these exempted circumstances, the employing physicians must still provide general supervision and be available to provide immediate needed assistance by telephone. Advanced registered nurse practitioners who prescribe drugs and medical devices are subject to the guidelines in effect for physicians as specified in rule 441—78.1(249A).

A physician assistant licensed under board of physician assistants' professional licensure rules in 645—Chapter 325 Chapters 326 to 329 is exempt from the direct personal supervision requirement ~~but the physician must still provide general supervision and be available to provide immediate needed assistance by telephone~~ except as expressly required by Iowa Code chapter 148C or required by rules in 645—Chapters 326 to 329. A physician shall be accessible at all times for consultation with a physician assistant unless the physician assistant is providing emergency medical services pursuant to 645—paragraph 327.1(2)“n.” Physician assistants who prescribe drugs and medical devices are subject to the guidelines in effect for physicians as specified in rule 441—78.1(249A).

[Filed 1/15/21, effective 4/1/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5419C****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to HCBS elderly waiver budget cap**

The Human Services Department hereby amends Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in 2020 Iowa Acts, House File 2269.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2269.

*Purpose and Summary*

During the 2020 Legislative Session, House File 2269 directed the Department to eliminate the monthly budget maximum or cap for individuals eligible for the Medicaid home- and community-based services (HCBS) elderly waiver. These amendments remove the total limit on the monthly cost of care for the elderly waiver.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5277C**. The Department received one letter of support from a nonprofit organization representing over 800 providers of elderly and disabled services through home health agencies, assisted living programs and nursing facilities. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on January 14, 2021.

*Fiscal Impact*

The fiscal impact of increasing or eliminating a waiver monthly cap must be calculated; however, because the majority of the HCBS elderly waiver members’ assessed needs are currently met within the established funding limits, the anticipated increase is cost-neutral or minimal. The Department estimated the fiscal impact of removing the monthly waiver funding cap by looking at approved exceptions to policy. Even though most elderly waiver service plans have a monthly maximum funding cap, the established exception-to-policy process allows for funding in excess of the waiver cap for medically necessary services to meet a member’s assessed needs. During calendar year 2019, the Iowa Medicaid Enterprise received 14 exception-to-policy requests to exceed the elderly waiver monthly cap; all of these requests were approved. A nominal fiscal impact of less than \$250,000 is expected.

*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).

## HUMAN SERVICES DEPARTMENT[441](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 April 1, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **83.22(2)“c”(2)** as follows:

(2) Services must be the least costly available to meet the service needs of the member. ~~The total monthly cost of the elderly waiver services exclusive of case management services shall not exceed the established monthly cost of the level of care. Aggregate monthly costs, excluding the cost of case management and home and vehicle modifications, are limited as follows:~~

<u>Skilled level of care</u>	<u>Nursing level of care</u>
\$2,792.65	\$1,365.78

ITEM 2. Amend paragraph **83.28(1)“c”** as follows:

c. Service needs ~~exceed the aggregate monthly costs established in 83.22(2)“b,”~~ or are not met by services provided.

ITEM 3. Rescind paragraph **83.28(2)“b.”**

ITEM 4. Reletter paragraphs **83.28(2)“c”** to **“e”** as **83.28(2)“b”** to **“d.”**

[Filed 1/15/21, effective 4/1/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5420C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

**Rule making related to extended services**

The Human Services Department hereby amends Chapter 187, “Aftercare Services Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted 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*

The Aftercare Services Program, including the Preparation for Adult Living (PAL) financial component, helps youth who were formerly in foster care, the Iowa State Training School, or a court-ordered Iowa juvenile detention center enter adulthood with ongoing services and supports.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Contracted support provides case management, life skills training, and financial supports for housing, transportation, clothing, food and other costs related to the participants' self-sufficiency plan. This program serves youth up to the age of 23.

Under 2020 Iowa Acts, House File 2220, youth who age out of relative foster care may receive the same financial support under the PAL program as youth who leave from State-paid care. This rule making implements this change. This change is consistent with the spirit of the federal Family First Prevention Services Act and the Department's efforts to help families take care of their own families.

Additionally, to align the term "postservices" with current practice, this rule making changes the term to "extended services."

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

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5275C**. 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 Human Services on January 14, 2021.

#### *Fiscal Impact*

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

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

#### *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 April 1, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **187.2(3)"c"** as follows:

*c. ~~Postservices~~ Extended services.* The youth must meet eligibility requirements for ~~postservices~~ extended services as described below:

- (1) The youth resides in Iowa; and
- (2) The youth is 21 or 22 years of age; and
- ~~(2)~~ (3) The youth was served by the aftercare services program prior to the age of 21; and
- ~~(3)~~ (4) The youth has access to funding for ~~postservices~~ extended services provided in contract that has not been fully expended for the contract year.

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

ITEM 2. Amend subrule 187.3(3) as follows:

**187.3(3) ~~Postservices~~ Extended services.** ~~Posttransition service~~ Extended services may be provided to youth, as described in paragraph 187.2(3) "c," and may include, but is are not limited to, life skills training, periodic check-in, referrals to needed services, and limited payments to youth. Funds, limited to an annual per-participant amount identified in the contract, may be provided to a former aftercare services participant. Prior to receiving available funds, the youth is required to meet with the advocate and discuss the reason the youth is accessing funds and prior efforts to meet the need. The youth may also be asked to provide documentation of income.

ITEM 3. Amend paragraph **187.3(5)"a"** as follows:

a. To receive a vendor payment, the youth must demonstrate that there are no other means to meet the needs that would be covered by the vendor payment. The youth shall contribute toward the cost of meeting the identified need, to the extent the youth is able. A youth receiving a preparation for adult living (PAL) stipend, preservices or ~~postservices~~ extended services is not eligible for a vendor payment.

ITEM 4. Amend paragraph **187.3(6)"a"** as follows:

a. To be eligible for the PAL stipend, the youth must:

- (1) Meet eligibility requirements in Iowa Code section 234.46 and rule 441—187.2(234); and
- (2) Have been placed out of home in ~~paid~~ foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center as identified by Iowa Code chapter 232 on the youth's eighteenth birthday and have exited after having been in any combination of the same services in at least 6 of the 12 months before leaving placement; and
- (3) Be ineligible for voluntary foster care placement, due to one of the following:
  1. The youth has a high school diploma or equivalent, or
  2. The youth has reached 20 years of age, or
  3. The youth became eligible for aftercare services due to exiting the Iowa state training school or an Iowa detention center, or
  4. The youth became eligible for aftercare services due to exiting court-ordered care in accordance with Iowa Code chapter 232 by a relative or another person with a significant relationship with the youth.

ITEM 5. Amend subrule 187.3(7) as follows:

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

- a. The youth is participating in ~~postservices~~ extended services 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~~ extended services funds approved for the youth have not exceeded \$300 for a three-month period calculated from the date of initiation of ~~postservices~~ extended services.

[Filed 1/15/21, effective 4/1/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5421C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Adopted and Filed**

**Rule making related to criminal history background checks**

The Inspections and Appeals Department hereby amends Chapter 50, "Health Care Facilities Administration," Chapter 51, "Hospitals," Chapter 58, "Nursing Facilities," and Chapter 67, "General

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

Provisions for Elder Group Homes, Assisted Living Programs, and Adult Day Services,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 10A.104, 135B.7, 135C.14, 231B.2, 231C.3 and 231D.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 135B.34, 135C.33, 231B.2(8), 231C.3(9) and 231D.14 and 2020 Iowa Acts, Senate File 2299.

*Purpose and Summary*

These amendments implement changes made to Iowa Code chapters 135B and 135C resulting from the enactment of 2020 Iowa Acts, Senate File 2299. The legislation adopts a process for provisional employment of employees and students of hospitals, health care facilities, assisted living programs, elder group homes, and adult day services upon the completion of a comprehensive criminal background check; defines “comprehensive criminal background check”; and sets forth the conditions under which such employment is permitted.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 16, 2020, as **ARC 5335C**. The Department received one public comment. The commenter noted costs associated with performing a comprehensive criminal background check and that the rules require that a comprehensive criminal background check cover the seven-year period immediately prior to submission of an application for employment, rather than the commenter’s preferred five-year period.

Since publication of the Notice of Intended Action, one correction has been made to strike the word “may” in the first sentence of paragraph 67.19(3)“b” in Item 12. No other changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on January 20, 2021. This rule making was initially reviewed by the State Board of Health at its November 12, 2020, meeting and subsequently approved by the Board at its January 13, 2021, meeting.

*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.

*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

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

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

*Effective Date*

This rule making will become effective on March 17, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following new definition of “Comprehensive preliminary background check” in subrule **50.9(1)**:

“*Comprehensive preliminary background check*” means a criminal history check of all states in which the applicant has worked or resided over the seven-year period immediately prior to submitting an application for employment or participation in a certified nurse aide training program that is conducted by an approved third-party vendor.

ITEM 2. Amend subrule 50.9(3) as follows:

**50.9(3) Requirements for employer prior to employing an individual.** Prior to employment of a person in a facility, the facility shall ~~request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state~~ complete the background check requirements set forth below.

a. *Informing the prospective employee.* A facility shall ask each person seeking employment by the facility, “Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime other than a simple misdemeanor offense relating to motor vehicles and laws of the road under Iowa Code chapter 321 or equivalent provisions, in this state or any other state?” In addition, the person shall be informed that a background check will be conducted. The person shall indicate, by signature, that the person has been informed that the background check will be conducted. (I, II, III)

b. *Conducting a background check.* The facility ~~may~~ shall either request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks of the person in this state, or access the single contact repository (SING) to perform the required background check. If the SING is used, the facility shall submit the person’s maiden name, if applicable, with the background check request. ~~If the SING is not used, the facility must obtain a criminal history check from the department of public safety and a check of the child and dependent adult abuse registries from the department of human services.~~ (I, II, III)

c. *If a person being considered for employment has been convicted of a crime.* If a person being considered for employment in a facility has been convicted of a crime under a law of any state, ~~the department of public safety shall notify the facility that upon the request of the facility shall request that the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person’s employment in the facility.~~ (I, II, III)

d. *If a person being considered for employment has a record of founded child or dependent adult abuse.* ~~If a department of human services child or dependent adult abuse record check shows that a person being considered for employment in a facility has a record of founded child or dependent adult abuse under a law of any state, the department of human services shall notify the facility that upon the request of the facility shall request that the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of the person’s employment in the facility.~~ (I, II, III)

e. *Employment pending evaluation.* ~~The facility may employ a person for not more than 60 calendar days pending the completion of the evaluation by the department of human services if all of the following apply. The 60-day period begins on the first day of the person’s employment. The facility may provisionally employ a person prior to completion of the required record check and evaluation by the department of human services, as applicable, subject to all of the following:~~

~~(1) The person is being considered for employment other than employment involving the operation of a motor vehicle;~~

~~(2) The person does not have a record of founded child or dependent adult abuse;~~

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

~~(3) The person has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2(1); and~~

~~(4) The facility has requested that the department of human services perform an evaluation to determine whether the crime warrants prohibition of the person's employment. (I, II, III)~~

~~(1) The facility shall have accessed SING to perform the required record check and be awaiting results from SING or awaiting evaluation by the department of human services, as applicable;~~

~~(2) If applicable, the facility shall request an evaluation by the department of human services in accordance with paragraph 50.9(3) "c" or "d" within 30 days of receipt of the SING record check results;~~

~~(3) The facility shall have utilized an approved third-party vendor to perform a comprehensive preliminary background check;~~

~~(4) If the comprehensive preliminary background check determines that the person being considered for employment has been convicted of a crime, the crime does not constitute a felony as defined in Iowa Code section 701.7 and is not a crime specified pursuant to Iowa Code chapter 708, 708A, 709, 709A, 710, 710A, 711, or 712 or pursuant to Iowa Code section 726.3, 726.7, or 726.8;~~

~~(5) The comprehensive preliminary background check shall have determined that the person being considered for employment does not have a record of founded child abuse or dependent adult abuse, or, if the person being considered for employment does have a record of founded child abuse or dependent adult abuse, subrule 50.9(8) is applicable; and~~

~~(6) The provisional employment may continue until such time as the required record check through SING and evaluation by the department of human services, as applicable, are completed. (I, II, III)~~

ITEM 3. Amend subrule 50.9(5) as follows:

**50.9(5) *Employment prohibition.*** ~~A~~ Except as provided in paragraph 50.9(3) "e," a person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a facility unless an evaluation has been performed by the department of human services. (I, II, III)

ITEM 4. Amend subrule 50.9(12) as follows:

**50.9(12) *Certified nurse aide training program students.*** ~~Prior to a student's beginning or returning to a certified nurse aide training program, the program shall request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks, in this state, of the student either request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks of the person in this state, or access the SING to perform the required background check.~~

*a. Prohibition of involvement in clinical education.* ~~If~~ Except as provided in paragraph 50.9(1) "b," if a student has a criminal record or a record of founded child or dependent adult abuse, the student shall not be involved in a clinical education component of the certified nurse aide training program involving children or dependent adults unless an evaluation has been performed by the department of human services. The evaluation shall be performed upon request of the certified nurse aide training program.

*b. Involvement in clinical education component pending evaluation.* ~~The training program may allow the student's participation in the clinical education component for not more than 60 calendar days pending the completion of the evaluation by the department of human services if all of the following apply. The 60-day period begins on the first day of the student's participation in the clinical education component. The training program may provisionally allow the student's participation in the clinical education component of the certified nurse aide training program pending completion of the required record check and evaluation by the department of human services, as applicable, subject to all of the following:~~

~~(1) The student's clinical education component of the training program involves children or dependent adults but does not involve the operation of a motor vehicle;~~

~~(2) The student does not have a record of founded child or dependent adult abuse;~~



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~~(3) The student has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2(1); and~~

~~(4) The training program has requested that the department of human services perform an evaluation to determine whether the crime warrants prohibition of the student's involvement in the clinical education component.~~

(1) The training program shall have accessed SING to perform the required record check and be awaiting results from SING or awaiting evaluation by the department of human services, as applicable;

(2) If applicable, the training program shall request an evaluation by the department of human services in accordance with paragraph 50.9(12) "a" within 30 days of receipt of the SING record check results;

(3) The training program shall have utilized an approved third-party vendor to perform a comprehensive preliminary background check;

(4) If the comprehensive preliminary background check determines that the student being considered for participation has been convicted of a crime, the crime does not constitute a felony as defined in Iowa Code section 701.7 and is not a crime specified pursuant to Iowa Code chapter 708, 708A, 709, 709A, 710, 710A, 711, or 712 or pursuant to Iowa Code section 726.3, 726.7, or 726.8;

(5) The comprehensive preliminary background check shall have determined that the student does not have a record of founded child abuse or dependent adult abuse, or, if the student does have a record of founded child abuse or dependent adult abuse, subrule 50.9(8) is applicable; and

(6) The provisional participation may continue until such time as the required record check through SING and evaluation by the department of human services, as applicable, are completed.

c. to e. No change.

ITEM 5. Amend rule **481—50.9(135C)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 135C.14 and ~~section~~ 135C.33 as amended by 2013 Iowa Acts, Senate File 347.

ITEM 6. Adopt the following **new** definition of "Comprehensive preliminary background check" in subrule **51.41(1)**:

*"Comprehensive preliminary background check"* means a criminal history check of all states in which the applicant has worked or resided over the seven-year period immediately prior to submitting an application for employment that is conducted by an approved third-party vendor.

ITEM 7. Amend subrule 51.41(2) as follows:

**51.41(2) Requirements for employer prior to employing an individual.** Prior to employment of a person in a hospital, the hospital shall ~~request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks of the person in this state~~ complete the background check requirements set forth below.

a. No change.

b. *Conducting a background check.* The hospital ~~may~~ shall either request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks of the person in this state, or access the single contact repository (SING) to perform the required background check. If the SING is used, the hospital shall submit the person's maiden name, if applicable, with the background check request. If SING is not used, the hospital must obtain a criminal history check from the department of public safety and a check of the child and dependent adult abuse registries from the department of human services.

c. *If a person considered for employment has been convicted of a crime.* If a person being considered for employment in a hospital has been convicted of a crime under a law of any state, ~~the department of public safety shall notify the hospital that upon the request of the hospital~~ shall request that the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person's employment in the hospital.

d. *If a person considered for employment has a record of founded child abuse or dependent adult abuse.* ~~If a department of human services child or dependent adult abuse record check shows that a~~

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

person being considered for employment in a hospital has a record of founded child or dependent adult abuse under a law of any state, ~~the department of human services shall notify the hospital that upon the request of the hospital shall request that~~ the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of employment in the hospital.

*e. Employment pending evaluation.* ~~The hospital may employ a person for not more than 60 calendar days pending the completion of the evaluation by the department of human services if all of the following apply. The 60-day period begins on the first day of the person's employment. The hospital may provisionally employ a person prior to completion of the required record check and evaluation by the department of human services, as applicable, subject to all of the following:~~

~~(1) The person is being considered for employment other than employment involving the operation of a motor vehicle;~~

~~(2) The person does not have a record of founded child or dependent adult abuse;~~

~~(3) The person has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2, subsection 1; and~~

~~(4) The hospital has requested an evaluation to determine whether the crime warrants prohibition of the person's employment.~~

(1) The hospital shall have accessed SING to perform the required record check and be awaiting results from SING or awaiting evaluation by the department of human services, as applicable;

(2) If applicable, the hospital shall request an evaluation by the department of human services in accordance with paragraph 51.41(2) "b" or "c" within 30 days of receipt of the SING record check results;

(3) The hospital shall have utilized an approved third-party vendor to perform a comprehensive preliminary background check;

(4) If the comprehensive preliminary background check determines that the person being considered for employment has been convicted of a crime, the crime does not constitute a felony as defined in Iowa Code section 701.7 and is not a crime specified pursuant to Iowa Code chapter 708, 708A, 709, 709A, 710, 710A, 711, or 712 or pursuant to Iowa Code section 726.3, 726.7, or 726.8;

(5) The comprehensive preliminary background check shall have determined that the person being considered for employment does not have a record of founded child abuse or dependent adult abuse, or, if the person being considered for employment does have a record of founded child abuse or dependent adult abuse, subrule 51.41(6) is applicable; and

(6) The provisional employment may continue until such time as the required record check through SING and evaluation by the department of human services, as applicable, are completed.

*f.* No change.

ITEM 8. Amend subrule 51.41(3) as follows:

**51.41(3) *Employment prohibition.*** A Except as provided in paragraph 51.41(2) "e," a person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a hospital unless an evaluation has been performed by the department of human services.

ITEM 9. Amend rule 481—**51.41(135B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 135B.7 and 135B.34 and ~~2013 Iowa Acts, Senate File 347~~ 2020 Iowa Acts, Senate File 2299.

ITEM 10. Amend subrule 58.11(3) as follows:

**58.11(3) *Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse.*** The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

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

ITEM 11. Adopt the following new definition of “Comprehensive preliminary background check” in subrule **67.19(1)**:

“*Comprehensive preliminary background check*” means a criminal history check of all states in which the applicant has worked or resided over the seven-year period immediately prior to submitting an application for employment that is conducted by an approved third-party vendor.

ITEM 12. Amend subrule 67.19(3) as follows:

**67.19(3)** *Requirements for employer prior to employing an individual.* Prior to employment of a person in a program, the program shall ~~request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state~~ complete the background check requirements set forth below.

a. No change.

b. *Conducting a background check.* The program ~~may~~ shall either request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks of the person in this state, or access the single contact repository (SING) to perform the required background check. If the SING is used, the program shall submit the person’s maiden name, if applicable, with the background check request. ~~If SING is not used, the program must obtain a criminal history check from the department of public safety and a check of the child and dependent adult abuse registries from the department of human services.~~

c. *If a person considered for employment has been convicted of a crime.* If a person being considered for employment in a program has been convicted of a crime under a law of any state, ~~the department of public safety shall notify the program that upon the request of the program~~ shall request that the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person’s employment in the program.

d. *If a person considered for employment has a record of founded child abuse or dependent adult abuse.* ~~If a department of human services child or dependent adult abuse record check shows that a person being considered for employment in a program has a record of founded child or dependent adult abuse under the law of any state, the department of human services shall notify the program that upon the request of the program~~ shall request that the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of employment in the program.

e. *Employment pending evaluation.* ~~The program may employ a person for not more than 60 calendar days pending the completion of the evaluation by the department of human services if all of the following apply. The 60-day period begins on the first day of the person’s employment. The program may provisionally employ a person prior to completion of the required record check and evaluation by the department of human services, as applicable, subject to all of the following:~~

~~(1) The person is being considered for employment other than employment involving the operation of a motor vehicle;~~

~~(2) The person does not have a record of founded child or dependent adult abuse;~~

~~(3) The person has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2, subsection 1; and~~

~~(4) The program has requested an evaluation to determine whether the crime warrants prohibition of the person’s employment.~~

(1) The program shall have accessed SING to perform the required record check and be awaiting results from SING or awaiting evaluation by the department of human services, as applicable;

(2) If applicable, the program shall request an evaluation by the department of human services in accordance with paragraph 67.19(3) “c” or “d” within 30 days of receipt of the SING record check results;

(3) The program shall have utilized an approved third-party vendor to perform a comprehensive preliminary background check;

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

(4) If the comprehensive preliminary background check determines that the person being considered for employment has been convicted of a crime, the crime does not constitute a felony as defined in Iowa Code section 701.7 and is not a crime specified pursuant to Iowa Code chapter 708, 708A, 709, 709A, 710, 710A, 711, or 712 or pursuant to Iowa Code section 726.3, 726.7, or 726.8;

(5) The comprehensive preliminary background check shall have determined that the person being considered for employment does not have a record of founded child abuse or dependent adult abuse, or, if the person being considered for employment does have a record of founded child abuse or dependent adult abuse, subrule 67.19(8) is applicable; and

(6) The provisional employment may continue until such time as the required record check through SING and evaluation by the department of human services, as applicable, are completed.

ITEM 13. Amend subrule 67.19(5) as follows:

**67.19(5) *Employment prohibition.*** A Except as provided in paragraph 67.19(3)“e,” a person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a program unless an evaluation has been performed by the department of human services.

ITEM 14. Amend rule **481—67.19(135C,231B,231C,231D)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 231B.2(1), 231C.3(1), 231D.2(2), and 135C.33 and ~~2013 Iowa Acts, Senate File 347~~ 2020 Iowa Acts, Senate File 2299.

[Filed 1/20/21, effective 3/17/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5422C**

**RACING AND GAMING COMMISSION[491]**

**Adopted and Filed**

**Rule making related to updates to racing and gaming rules**

The Racing and Gaming Commission hereby amends Chapter 1, “Organization and Operation,” Chapter 2, “Rule Making and Declaratory Orders,” Chapter 5, “Track, Gambling Structure, and Excursion Gambling Boat Licensees’ Responsibilities,” Chapter 8, “Pari-Mutuel Wagering, Simulcasting and Advance Deposit Wagering,” Chapter 11, “Gambling Games,” Chapter 12, “Accounting and Cash Control,” Chapter 13, “Sports Wagering,” and Chapter 14, “Fantasy Sports Contests,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 99D.7, 99E.3 and 99F.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 99D, 99E and 99F.

*Purpose and Summary*

Items 1 and 2 implement changes required by 2020 Iowa Acts, House File 2389.

Item 3 clarifies how sports wagering net receipts are reported.

Item 4 requires a disaster recovery plan for electronic wagering accounts.

Item 5 requires reserves for electronic wagering accounts.

Item 6 terminology is updated for a person under the age of 21.

Item 7 modifies the definition of “implement of gaming” to include electronic wagering accounts.

Item 8 implements new requirements for gambling games of chance.

## RACING AND GAMING COMMISSION[491](cont'd)

- Item 9 includes cashless wagers.
- Item 10 adds a new definition of “electronic wagering account.”
- Item 11 clarifies requirements for operation of electronic wagering accounts.
- Item 12 clarifies that notification to the Commission about certain incidents needs to be in writing.
- Item 13 removes unnecessary language.
- Item 14 restructures subrule 13.2(9) to account for the removal of paragraph 13.2(9)“a.”
- Item 15 clarifies that a vendor of retail sports wagering operations shall complete an audit.
- Item 16 clarifies revenue reporting requirements.
- Item 17 requires sports wagering advertisements to include a link to the rules for customers.
- Item 18 addresses how revenue is allocated when in-person registration is not required for online sports wagering.
- Item 19 clarifies segregation of funds for player accounts and operational funds.
- Item 20 addresses how revenue is allocated when in-person registration is not required for online sports wagering.
- Item 21 clarifies requirements for audits.
- Item 22 authorizes a third individually branded website.
- Item 23 clarifies when a fantasy sports contest is determined promotional in nature for tax reporting.
- Item 24 clarifies revenue reporting requirements.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5269C**. A public hearing was held on December 8, 2020, at 9 a.m. in the Commission Office, Suite 100, 1300 Des Moines Street, Des Moines, Iowa. No one attended the public hearing. One written comment was received from a stakeholder with regard to Item 18.

As a result of additional input from stakeholders, changes from the Notice have been made in Items 11, 17, 18 and 21. Specifically, the changes update remote account registration requirements and how net receipts would be divided. In addition, one change clarifies that electronic wagering accounts shall not be funded with a credit card.

*Adoption of Rule Making*

This rule making was adopted by the Commission on January 21, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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).

## RACING AND GAMING COMMISSION[491](cont'd)

*Effective Date*

This rule making will become effective on March 17, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 491—1.8(17A,99D,99F) as follows:

**491—1.8(17A,99D,99F) Granting of a waiver.** For purposes of this rule, a waiver ~~or variance~~ means action by the commission that suspends in whole or in part the requirements or provisions of a rule as applied to an identified entity on the basis of the particular circumstances of that entity. ~~For simplicity, the term “waiver” shall include both a waiver and a variance.~~

**1.8(1) to 1.8(19)** No change.

**1.8(20)** *Submission of waiver information.* All orders granting or denying a waiver petition shall be submitted to the legislative services agency through the Internet site established pursuant to Iowa Code section 17A.9A for such submissions within 60 days of the granting or denial of the petition.

~~1.8(20)~~ **1.8(21)** *Summary reports.* Semiannually, the commission shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the commission's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

~~1.8(21)~~ **1.8(22)** *Cancellation of a waiver.* A waiver issued by the commission pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the commission issues an order finding any of the following:

a. to c. No change.

~~1.8(22)~~ **1.8(23)** *Violations.* Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

~~1.8(23)~~ **1.8(24)** *Defense.* After the commission issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

~~1.8(24)~~ **1.8(25)** *Judicial review.* Judicial review of the commission's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

ITEM 2. Adopt the following **new** subrule 2.18(5):

**2.18(5)** *Copies to administrative rules review committee.* Petitions for rule making and the disposition of such petitions shall be provided to the administrative rules review committee.

ITEM 3. Amend subparagraph **5.4(10)“d”(1)** as follows:

(1) A tax is imposed on the sports wagering net receipts received each fiscal year from sports wagering. “Sports wagering net receipts” means the gross receipts less winnings paid to wagerers on sports wagering on a cash accounting basis. Voided and canceled transactions are not considered receipts for the purpose of this calculation. Any offering used to directly purchase a wager shall be considered receipts for the purpose of this calculation.

ITEM 4. Adopt the following **new** paragraph **5.4(14)“e”**:

e. Any licensee that offers electronic wagering accounts, as defined by rule 491—12.1(99F), must prepare a disaster recovery plan that addresses off-site backups or equivalent. All disaster recovery plans shall incorporate industry standards for retention and storage of wagering account information and shall be subject to review as part of the network security risk assessment required by subrule 5.4(21).

## RACING AND GAMING COMMISSION[491](cont'd)

ITEM 5. Adopt the following **new** subrule 5.4(22):

**5.4(22) *Cashless wagering reserves.*** A reserve in the form of cash or cash equivalents segregated from operational funds shall be maintained to cover the entirety of a licensee's electronic wagering account liability. The reserve shall equal or exceed the licensee's wagering account liability as of the last day in the previous quarter. An accounting of this reserve shall be made available for inspection to the commission upon request. The method of reserve shall be submitted to and approved by the administrator prior to implementation.

ITEM 6. Amend subrule 8.2(21) as follows:

**8.2(21) *Minors prohibited from Underage wagering prohibited.*** No ~~minor~~ person under the age of 21 shall be permitted by any licensed facility to purchase or cash a pari-mutuel ticket.

ITEM 7. Amend rule **491—11.1(99F)**, definition of "Implement of gambling," as follows:

*"Implement of gambling"* means any device or object determined by the administrator to directly or indirectly influence the outcome of a gambling game; collect wagering information while directly connected to a ~~slot machine gambling game~~; facilitate the operation of an electronic wagering account as defined by rule 491—12.1(99F); or be integral to the conduct of a commission-authorized gambling game.

ITEM 8. Rescind subrule 11.5(4) and adopt the following **new** subrule in lieu thereof:

**11.5(4)** Gambling games of chance involving prizes awarded to participants through promotional activities at a facility may be conducted by the licensee providing the following:

*a.* Rules shall be made available to participants for review prior to registering. Rules shall include, at a minimum, all conditions registered players must meet to qualify to enter or participate in the event, available prizes or awards, and distribution of prizes or awards based on specific outcomes.

*b.* All gambling games are conducted in a fair and honest manner, and all rules are followed. Changes to rules shall not be made after participants have registered.

*c.* Results shall be made available for the registered players to review at the same location at which or in the same manner in which players registered. Results shall include, at a minimum, name of the event, date of the event, total number of entries, total prize pool, and amount paid for each winning category.

*d.* No entry fees shall be permitted.

*e.* All employees of the facility shall be prohibited from participation.

*f.* Such games shall be limited to participants 21 years of age or older.

*g.* There is compliance with all other federal, state and local laws and rules outside of the commission's jurisdiction.

*h.* Outcomes for gambling games shall be determined on the designated gaming floor, approved pursuant to 491—subrule 5.4(17), and outcomes shall be immediately or simultaneously displayed by a device or devices on the designated gaming floor.

*i.* In determining adjusted gross receipts pursuant to Iowa Code section 99F.11, the facility may consider all nonmonetary consideration expended by a participant and the nonmonetary consideration shall at least equal the value of prizes awarded.

ITEM 9. Amend paragraph **11.7(2)"a"** as follows:

*a.* All wagers at table games shall be made by placing gaming chips or coins on the appropriate areas of the layout or by making a cashless wager using an approved wagering device.

ITEM 10. Adopt the following **new** definition of "Electronic wagering account" in rule **491—12.1(99F)**:

*"Electronic wagering account"* means an individual player's account established by an authorized facility into which a player can deposit funds for the purpose of wagering on authorized gambling devices.

ITEM 11. Adopt the following **new** rule 491—12.16(99F):

**491—12.16(99F) Electronic wagering accounts.**

## RACING AND GAMING COMMISSION[491](cont'd)

**12.16(1)** A facility may be allowed to offer electronic wagering accounts for patrons enrolled at that facility for use on premises at that facility. Prior to offering any electronic wagering accounts, the facility shall submit additional internal controls, approved by a commission representative in accordance with rule 491—12.3(99F), that include the following for operation of an account:

- a.* Limitation of one active account per individual player.
- b.* Details on how a player will be identified and the methods required to access funds in the account.
- c.* Process to easily and prominently impose limitations for wagering parameters including, but not limited to, deposits and wagers. Upon receipt, any self-imposed limitations must be employed correctly and immediately as indicated to the player. No changes can be made reducing the severity of the self-imposed limitations for at least 24 hours. If the wagering account includes access to wagering account information, this process must include the capability to notify the player for self-imposed limitations.
- d.* Process to prohibit wagering by participants of the statewide self-exclusion program set forth in Iowa Code section 99F.4(22). The operator must ensure that newly enrolled participants are paid in full for their account balance within a reasonable time provided that the operator acknowledges that the funds have cleared.

**12.16(2)** The following requirements apply to the maintenance of funds associated with a player account:

- a.* A facility shall not have access to funds in a player's account, except to debit the account for a wager made by the player, to remit funds to the player at the player's request, or as otherwise authorized by the commission.
- b.* Methods of transfer or deposit into a player's account shall be limited to currency transactions with a casino cashier, or transfers from a participating gaming machine or designated kiosk, unless otherwise approved by the commission. Direct transfers utilizing accounts with outside entities are permitted, but transfers to a player's wagering account shall not be allowed while a patron is on the designated gaming floor, as approved pursuant to 491—subrule 5.4(17). Electronic wagering accounts shall not be funded with a credit card.
- c.* Positive player identification, including any personal identification number (PIN) entry or other approved secured methods, must be completed before the withdrawal of any moneys held by the facility.
- d.* It shall not be possible to transfer funds between two player accounts.
- e.* A facility shall provide a transaction log or account statement history at no cost to players upon request. Information provided shall include sufficient information to allow players to reconcile the statement or record against their own financial records and shall identify any device where a transaction occurred.
- f.* A facility shall not charge any fees for the registration, operation or maintenance of wagering accounts including, but not limited to, processing any deposits or withdrawals.

**12.16(3)** Abandoned player accounts under this rule are subject to Iowa Code chapter 556. Player accounts are considered abandoned if no activity by the account holder has occurred for three years. Player activity includes any deposit or withdrawal, including activity initiated by the player to make a wager on a participating gaming device.

ITEM 12. Amend paragraph **13.2(7)“e”** as follows:

- e.* To report within 72 hours, in writing, any incident where an employee or customer is detected violating a provision of Iowa Code chapter 99F, a commission rule or order, or internal controls. In addition to the written report, the licensee or advance deposit sports wagering operator shall provide immediate notification to the commission if an incident involves employee theft, criminal activity, Iowa Code chapter 99F violations or sports wagering receipts.



## RACING AND GAMING COMMISSION[491](cont'd)

ITEM 13. Rescind paragraph **13.2(9)“a.”**

ITEM 14. Reletter paragraphs **13.2(9)“b”** to **“d”** as **13.2(9)“a”** to **“c.”**

ITEM 15. Adopt the following **new** subrule 13.2(10):

**13.2(10) Annual audit.** If a vendor is conducting sports wagering for a casino licensee, an audit of the sports wagering operations for the vendor or parent company of the vendor shall be conducted by certified public accountants authorized to practice in the state of Iowa, and the audit shall be provided to the commission within 90 days of the vendor’s fiscal year and meet the following conditions:

- a. Inclusion of an internal control letter, audited balance sheet, and audited profit-and-loss statement including a breakdown of expenditures and subsidiaries of sports wagering activities.
- b. Inclusion of a supplement schedule indicating financial activities on a calendar-year basis if the vendor’s fiscal year does not correspond to the calendar year.
- c. Inclusion of a supplement schedule for all Iowa locations in which the vendor operates.
- d. Report of any material errors, irregularities that may be discovered during the audit, or notice of any audit adjustments.
- e. Availability, upon request, of an engagement letter for the audit between the vendor or parent company of the vendor and the auditing firm.

ITEM 16. Adopt the following **new** subrule 13.2(11):

**13.2(11) Revenue reports.** Licensees and advance deposit sports wagering operators shall provide additional reports, as determined necessary by the administrator, that detail the revenue submission required by 491—paragraph 5.4(10)“d.” Reports shall be provided to the commission in a format approved by the administrator. The administrator shall provide written notice to any licensee if additional reports are determined necessary. In addition, the administrator shall provide adequate time to any licensee if a report needs to be created to satisfy this requirement.

ITEM 17. Amend subrule 13.3(3) as follows:

**13.3(3) Sports promotional contests, tournaments, or promotional activities.** Sports promotional contests, tournaments, or promotional activities may be permitted by the licensee, vendor, or advance deposit sports wagering operator providing the following:

- a. to d. No change.
- e. Rules include terms and conditions. All emails or digital advertisements promoting contests, tournaments, and promotional activities shall include a link or other easily obtainable source that includes rules or terms and conditions.
- e. f. There is compliance with all other federal, state, and local laws and rules outside of the commission’s jurisdiction.

ITEM 18. Amend subrule 13.5(2) as follows:

**13.5(2) Account registration.** A person must have an established account in order to place advance deposit sports wagers. The process for establishing an account is subject to the administrator’s approval. Prior to January 1, 2021, an account shall be established at the facility as required by Iowa Code section 99F.9(3A) with a process approved by the administrator 99F.9(4). On or after January 1, 2021, an account may be established through on-site registration under procedures previously approved by the administrator, or through remote registration. To establish an account, an application for an account shall be signed or otherwise authorized in a manner approved by the administrator and shall include the applicant’s full legal name, principal residential address, date of birth, and any other information required by the administrator. The account registration process shall also include:

- a. to e. No change.
- f. If an advance deposit sports wagering operator has an agreement with more than one licensee, the advance deposit sports wagering operator shall submit an agreement to the administrator that indicates the manner in which customer net receipts shall be assigned with its licensee partners. The agreement shall include all partnering licensees and their respective qualified sponsoring organizations, and the net receipts shall be allocated using one of the following methods:

## RACING AND GAMING COMMISSION[491](cont'd)

(1) Make available an option for new remotely registered customers to select the licensee at which net receipts are assigned.

(2) Allocate new remotely registered customer net receipts to the licensee which is located nearest to the customer's principal residential address.

(3) Distribute all customer receipts evenly between all licensees for which an agreement exists.

(4) An alternative allocation agreement that complies with local, state and federal law.

The agreement shall be made available for public inspection.

ITEM 19. Adopt the following new paragraph **13.5(4)“h”**:

*h.* An advance deposit sports wagering operator or licensee shall segregate player account funds from operational funds.

ITEM 20. Adopt the following new paragraph **13.5(5)“e”**:

*e.* Inclusion of a supplemental schedule for Iowa operations. A supplemental schedule shall include a breakdown of advance deposit sports wagering activities by each Iowa casino in which there is an agreement. The supplemental schedule provided to satisfy this requirement may be unaudited; however, the top financial officer of the company shall provide a statement attesting to the accuracy of the information provided to the commission.

ITEM 21. Adopt the following new subrule 13.5(7):

**13.5(7)** *Expiration or termination of an Iowa Code section 99F.7A operating agreement.* In the event an advance deposit sports wagering operating agreement between a licensee under Iowa Code section 99F.7A and another entity expires, terminates, or is no longer valid, notice of termination must be given to the commission and all customers affiliated with the licensee. A customer shall be given an opportunity to close an account. If the advance deposit sports wagering operator has an operating agreement with other licensees in the state of Iowa, the customer shall have the option to select another partner licensee to which their net receipts shall be assigned, or the customer's net receipts shall be assigned to any remaining partner licensees in accordance with an agreement submitted to the administrator pursuant to paragraph 13.5(2)“f.”

ITEM 22. Amend paragraph **13.7(2)“c”** as follows:

*c.* Disclosure of operating agreements for up to two, or three if authorized by the commission, individually branded internet sites to conduct advance deposit wagering for the facility.

ITEM 23. Amend subrule 14.6(1) as follows:

**14.6(1)** The licensee shall pay a tax rate pursuant to Iowa Code section 99E.6 on adjusted revenue from fantasy sports contests. “Adjusted revenue” means the amount equal to the total charges and fees collected from all participants entering the fantasy sports contest less winnings paid to participants in the contest, multiplied by the location percentage defined in Iowa Code section 99E.1. Charges and fees returned to participants due to a participant withdrawing the participant's entry from a fantasy sports contest shall not be considered when calculating the adjusted revenue. Contests resulting in negative adjusted revenue shall be considered promotional in nature and cannot be used to offset taxes owed pursuant to Iowa Code section 99E.6.

ITEM 24. Adopt the following new subrule 14.6(6):

**14.6(6)** Fantasy sports operators shall provide additional reports, as determined necessary by the administrator, that detail the taxes collected in accordance with this rule. Reports shall be provided to the commission in a format approved by the administrator. The administrator shall provide written notice to any licensee if additional reports are determined necessary. In addition, the administrator shall provide adequate time to any licensee if a report needs to be created to satisfy this requirement.

[Filed 1/21/21, effective 3/17/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5423C****RACING AND GAMING COMMISSION[491]****Adopted and Filed****Rule making related to wagering and horse racing**

The Racing and Gaming Commission hereby amends Chapter 8, "Pari-Mutuel Wagering, Simulcasting and Advance Deposit Wagering," Chapter 10, "Thoroughbred and Quarter Horse Racing," and Chapter 14, "Fantasy Sports Contests," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 99D.7, 99E.3 and 99F.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 99D, 99E and 99F.

*Purpose and Summary*

- Item 1 rescinds unneeded definitions.
- Item 2 adds helmet and vest safety specifics.
- Items 3 and 4 add reporting requirements for helmet and vest safety.
- Item 5 clarifies jockey agent representation.
- Item 6 adds additional circumstances in which a horse is ineligible to race.
- Item 7 clarifies a circumstance in which a horse is ineligible to start.
- Item 8 clarifies what consecutive days are for entries.
- Item 9 clarifies requirements for thoroughbred workouts.
- Item 10 restructures subrule 10.6(9) to account for the two new paragraphs proposed in Item 11.
- Item 11 clarifies requirements for quarter horse workouts.
- Item 12 specifies when claims are allowed.
- Item 13 adds additional specificity for requirements to disallow a claim.
- Item 14 clarifies when an actual void takes place when stewards void a claim.
- Item 15 changes the rule violation reporting requirement time period.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 16, 2020, as **ARC 5315C**. A public hearing was held on January 5, 2021, at 9 a.m. in the Commission Office, Suite 100, 1300 Des Moines Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Commission on January 21, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

## RACING AND GAMING COMMISSION[491](cont'd)

*Waivers*

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

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 17, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind the definitions of "Pick (n)," "Pick three" and "Place pick (n) pools" in rule **491—8.1(99D)**.

ITEM 2. Adopt the following **new** paragraphs **10.2(9)"a"** and **"b"**:

a. A jockey participating in a race shall have a helmet that is not altered and complies with one of the following standards:

- (1) American Society for Testing and Materials (ASTM 1163).
- (2) European Standards (EN-1384 or PAS-015 or VG1).
- (3) Australian/New Zealand Standards (AS/NZ 3838).
- (4) ARB HS 2012.
- (5) Snell Equestrian Standard 2001.

b. A jockey participating in a race shall have a vest that is not altered and complies with one of the following minimum safety standards:

- (1) British Equestrian Trade Association (BETA) 2000 Level 1.
- (2) Euro Norm (EN) 13158:2000 Level 1.
- (3) American Society for Testing and Materials (ASTM) F2681-08 or F1937.
- (4) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3.
- (5) Australian Racing Board (ARB) Standard 1.1998.

ITEM 3. Amend paragraph **10.4(11)"g"** as follows:

g. Report to the stewards any unusual occurrences in the jockey room or infraction of the rules with respect to helmets and vests;

ITEM 4. Amend paragraph **10.4(13)"i"** as follows:

i. Promptly report to the stewards any infraction of the rules with respect to riding equipment; safety equipment, including, but not limited to, helmets and vests; riding crops; or conduct.

ITEM 5. Amend subparagraph **10.5(4)"a"(5)** as follows:

(5) No jockey agent shall represent more than two jockeys and one apprentice jockey at the same time except:

1. A jockey agent may represent three jockeys at a "mixed" meeting so long as no more than two of the jockeys ride the same breed. In addition, a jockey agent may represent one apprentice jockey who may ride either breed.

2. No change.

ITEM 6. Adopt the following **new** subparagraphs **10.6(1)"a"(12)** to **(14)**:

(12) A horse under four years of age has been injected with bisphosphonates. A horse four years of age or older may only be administered bisphosphonate if the bisphosphonate is Food and

## RACING AND GAMING COMMISSION[491](cont'd)

Drug Administration-approved for use in the horse and administered in accordance with the label requirements and only for diagnosed cases of navicular disease. If bisphosphonate is administered as permitted by rule, the commission shall be notified within 24 hours of the administration. If bisphosphonate is detected in sampling or if a horse is administered bisphosphonate, the horse shall be placed on the veterinarian's list for no less than six months.

(13) A horse has had any intra-articular joint injection within the past six days. For the purpose of counting the number of days a horse is ineligible to run following an intra-articular injection, the day of injection is the first day. The detection of two or more corticosteroids constitutes a stacking violation.

(14) A horse has been administered thyroxine and thyroid modulators/hormones including, but not limited to, those containing T4 (tetraiodothyronine/thyroxine), T3 (triiodothyronine), or combinations thereof. This excludes a horse that has been individually prescribed thyroxine and thyroid modulators/hormones.

ITEM 7. Amend subparagraph **10.6(1)“b”(8)** as follows:

(8) The horse is a first-time starter not approved by the starter and does not have a minimum of two ~~published~~ official workouts for quarter horses or a minimum of three official workouts for thoroughbreds.

ITEM 8. Amend paragraph **10.6(2)“f”** as follows:

*f.* Consecutive days. No horse shall be run twice within ~~five~~ four consecutive calendar days. For the purpose of this rule, the day after the start shall count as the first day.

ITEM 9. Rescind paragraph **10.6(9)“a”** and adopt the following new paragraph in lieu thereof:

*a. Thoroughbreds, when required.*

(1) No horse shall be allowed to start unless the horse has raced in an official race or has had an approved official timed workout satisfactory to the stewards, and adheres to the following for horses that are not first-time starters:

1. A horse that has not started for a period of 60 days or more shall have had an official workout satisfactory to the stewards prior to the day of the race in which the horse started, and the horse must have had an official workout within the previous 30 days.

2. A horse that has not started for a period of 180 days or more shall have had two official workouts, one of which must have occurred within the previous 30 days prior to the day of the race in which the horse started.

3. A horse that has not started for a period of 365 days or more shall fulfill the following requirements before being allowed to start:

- The horse must have had three official workouts.
- One of the three official workouts must have been from the starting gate going at least one-half mile, within 60 days of starting.

(2) No first-time starter shall be allowed to race unless it has had three official workouts, with one having occurred from the gate within the previous 60 days and is approved to start from the gate by the starter.

ITEM 10. Reletter paragraphs **10.6(9)“b”** to **“d”** as **10.6(9)“d”** to **“f.”**

ITEM 11. Adopt the following new paragraphs **10.6(9)“b”** and **“c”**:

*b. Quarter horses, when required.*

(1) No horse shall be allowed to start unless the horse has raced in an official race or has had an approved official timed workout satisfactory to the stewards, and adheres to the following for horses that are not first-time starters:

1. A horse that has not started for a period of 60 days or more shall be ineligible to race until it has had an official workout satisfactory to the stewards prior to the day of the race in which the horse started, and the horse must have had an official workout within the previous 60 days.

2. A horse that has not started for a period of 180 days or more shall have had two official workouts, one of which must have occurred within the previous 60 days.

3. A horse that has not started for a period of 365 days or more shall fulfill the following requirements before being allowed to start:

## RACING AND GAMING COMMISSION[491](cont'd)

- The horse must have had two official workouts.
  - One of the two official workouts must have been from the starting gate within 60 days of starting.
- (2) No first-time starter shall be allowed to race unless it has had two official workouts, with one having occurred from the gate within the previous 60 days and is approved to start from the gate by the starter.

*c. Counting of days.* For the purpose of counting the number of days a horse is ineligible to start, the day after the workout shall be considered the first day.

ITEM 12. Amend subparagraph **10.6(18)“a”(1)** as follows:

(1) Registered to race or open claim. No person may file a claim for any horse unless the person:

1. and 2. No change.

3. Has a valid open claim certificate. Any person not licensed as an owner, or a licensed authorized agent for the account of the same, or a licensed owner not having foal paper(s) registered with the racing secretary's office or who has not started a horse at the current meeting may request an open claim certificate from the commission. The person must submit a completed application for a prospective owner's license to the commission. The applicant must have the name of the trainer licensed by the commission who will be responsible for the claimed horse. A nonrefundable fee must accompany the application along with any financial information requested by the commission. The names of the prospective owners shall be prominently displayed in the offices of the commission and the racing secretary. The application will be processed by the commission; and when the open claim certificate is exercised, an owner's license will be issued; or

4. Is not a family member related within the second degree of affinity or consanguinity to the person or ownership entity who owns the horse. For the purpose of determining whether an ownership entity is excluded from claiming a horse or having a horse claimed, a family member within the second degree of affinity or consanguinity shall be defined as a parent, child, grandparent, grandchild, sibling, or in-law who owns or controls 5 percent or more of said entity.

ITEM 13. Amend paragraph **10.6(18)“i”** as follows:

*i. Disallowance of claim.* The stewards may cancel and disallow any claim within 24 hours after a race if they determine that a claim was made upon the basis of a lease, sale, or entry of a horse made for the purpose of fraudulently obtaining the privilege of making a claim; or if an eligible claimant improperly obtains information or access to horses by being present in the paddock during the claiming race unless the claimant has a horse in that claiming race, as determined solely by the stewards. In the event of a disallowance, the stewards may further order the return of a horse to its original owner and the return of all claim moneys. To disallow a claim, it must be shown by clear and convincing evidence that there is a direct and substantial connection between the eligible claimant and the owner or owner's trainer of the horse to be claimed wherein the eligible claimant improperly gained information about the horse to be claimed and the information was otherwise unavailable to other licensed owners or ownership entities. The mere appearance of impropriety is not a basis for disallowing a claim.

ITEM 14. Amend paragraph **10.6(18)“j”** as follows:

*j. Protest of claim.* A protest to any claim must be filed with the stewards before noon of the day following the date of the race in which the horse was claimed. Nonracing days are excluded from this rule. Should the stewards void a claim for reasons other than failure to follow the procedure for claiming, when there are multiple claims on a singular horse, said claim shall not be voided until after the determination by lot.

ITEM 15. Amend subrule 14.8(3), introductory paragraph, as follows:

**14.8(3) Reporting.** The licensee shall provide immediate prompt notification of any facts which the licensee has reasonable grounds to believe indicate a violation of law or commission rule committed by licensees, their key persons, or their employees, including without limitation the performance of licensed activities different from those permitted under their license. The licensee is also required to provide a

RACING AND GAMING COMMISSION[491](cont'd)

detailed written report within ~~72 hours~~ seven business days, or a time frame otherwise approved by the administrator, from the discovery for any of the following:

[Filed 1/21/21, effective 3/17/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5424C**

**TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

**Rule making related to public records**

The Department of Transportation hereby amends Chapter 4, "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 sections 305.15 and 307.12.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 22.4 and 804.29.

*Purpose and Summary*

This rule making conforms Chapter 4 with recent amendments to the Iowa Code. 2020 Iowa Acts, House File 2627, section 33, amends Iowa Code section 22.4 to clarify that public records may be requested in person, in writing, by telephone, or by electronic means. The Department's practice already allows for these methods. 2020 Iowa Acts, House File 2474, section 1, amends Iowa Code section 804.29 regarding the confidentiality of information filed with the court used to secure an arrest warrant. During the confidentiality period, access to such information can be expressly restricted by court order.

These amendments also clarify subrule 4.3(6) concerning security of records to state that, without permission from the custodian, a record copy may not be removed from the place where it is available, and the custodian shall place at least one certified copy in the file if the original record is released.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 4, 2020, as **ARC 5246C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on January 13, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

TRANSPORTATION DEPARTMENT[761](cont'd)

*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.

*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 17, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **4.3(1)“b”** as follows:

*b.* Notwithstanding paragraph “a” of this subrule, any request that may be related to a potential or an actual tort claim or other litigation shall be submitted to ~~the following address:~~ General Counsel, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. If the custodian receives a request of this nature, the custodian shall forward the request to the department's general counsel.

ITEM 2. Amend subrule 4.3(3) as follows:

**4.3(3) Form of request.** A request for access to a record shall reasonably describe the record requested. A request for access to an open record may be made ~~orally or in person,~~ in writing, by telephone, or by electronic means. A requester shall not be required to give reasons for requesting an open record.

ITEM 3. Amend subrule 4.3(6) as follows:

**4.3(6) Security of records.** No person may, without permission from the custodian, search agency files or remove any record copy from the place where it is made available. The custodian shall supervise the examination and copying of records and protect the records from damage and disorganization. Original paper records shall be released from department custody only upon court order. ~~At~~ The custodian shall place at least one certified copy shall be retained in the file if the original record is released.

ITEM 4. Amend subrule 4.9(6) as follows:

**4.9(6)** Unless otherwise ordered by the court, all information filed with the court for the purpose of securing a warrant for an arrest including, but not limited to, a citation and affidavits, until such time as a peace officer has made the arrest and has made the officer's return on the warrant, or the defendant has made an initial appearance in court. (Iowa Code section 804.29)

*a.* However, the information in the record may be disseminated without court order during the course of official duties to the persons authorized in Iowa Code section 804.29 unless access to such information is expressly denied by court order.

*b.* Reserved.

[Filed 1/14/21, effective 3/17/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.



**ARC 5425C****TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rule making related to the adopt-a-highway program**

The Department of Transportation hereby amends Chapter 121, “Adopt-A-Highway Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 307.12.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 307.24.

*Purpose and Summary*

The amendments to Chapter 121 include references to the Department’s website and the Maintenance Bureau for information on the Adopt-A-Highway Program. Other amendments reflect the Department’s current electronic application process for prospective sponsors to participate in the Adopt-A-Highway Program and specify that the sponsors are only responsible for litter pickup for a designated segment of highway because work in the right-of-way, such as installation and maintenance of native plants or other landscape activities, is approved through a different process.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 4, 2020, as **ARC 5245C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on January 13, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

TRANSPORTATION DEPARTMENT[761](cont'd)

*Effective Date*

This rule making will become effective on March 17, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—121.2(307) as follows:

**761—121.2(307) Information and location.** ~~Information and application forms~~ relating to the adopt-a-highway program may be obtained ~~by contacting the local maintenance office for the name of the person administering the program in the local area, or:~~ Office of online at [www.iowadot.gov](http://www.iowadot.gov). Assistance is available by mail from the Maintenance Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010 or by telephone at (515)239-1971. ~~Applications shall be submitted to the person administering the program in the local area.~~

ITEM 2. Amend rule 761—121.3(307) as follows:

**761—121.3(307) Program guidelines.**

**121.3(1)** The adopt-a-highway program allows individuals or groups to assume responsibility for performing litter pickup for a specific segment of highway.

**121.3(2)** All primary roads, including interstate highways, under the jurisdiction of the department shall be eligible for participation in the adopt-a-highway program.

ITEM 3. Rescind and reserve rule **761—121.5(307)**.

ITEM 4. Amend subrule 121.6(1) as follows:

**121.6(1) Application.** ~~Form 810105, “Application to Adopt A Highway,” includes the agreements to be signed by the sponsor and the department and lists the responsibilities of both the sponsor and the department.~~ The adopt-a-highway webpage located on the department’s website at [www.iowadot.gov](http://www.iowadot.gov) contains a link to an online adopt-a-highway permit application form. After a prospective sponsor applies online, the department will review the application and contact the prospective sponsor by telephone or email.

[Filed 1/14/21, effective 3/17/21]

[Published 2/10/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5426C**

**TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

**Rule making related to signs**

The Department of Transportation hereby amends Chapter 131, “Signing on Primary Highways,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 314.31.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 314.31 and 321.252.

TRANSPORTATION DEPARTMENT[761](cont'd)

*Purpose and Summary*

This rule making updates Chapter 131 to comply with 2020 Iowa Acts, Senate File 388, sections 1 and 2; corrects the name of the Traffic and Safety Bureau; and makes editorial changes to the introductory paragraphs of several rules for consistency within the chapter.

2020 Iowa Acts, Senate File 388, adds section 314.31 to the Iowa Code. This section requires the Department to adopt rules to define the procedures and requirements for private entities to purchase and pay for the installation of signs designating the Iowa Medal of Honor Highway. This highway is defined as the segment of United States Highway 20, as designated as of June 17, 2020, which crosses Iowa from Sioux City to Dubuque.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 2, 2020, as **ARC 5290C**. The Department received one response asking for clarification of the term “applicant.” The use of “applicant” in the rule is not intended to be associated with any organization, agency or person. The intent of the rule is that anyone can apply to purchase a sign for installation on the Iowa Medal of Honor Highway. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on January 13, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. The number of signs that will be installed on the Iowa Medal of Honor Highway is limited, and the cost and installation of the signs will be paid for by private entities.

*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.

*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 17, 2021.

The following rule-making actions are adopted:

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 1. Strike “office of traffic safety” wherever it appears in rules **761—131.1(321)** to **761—131.3(321)** and **761—131.6(321)** to **761—131.8(321)** and insert “traffic and safety bureau” in lieu thereof.

ITEM 2. Amend rule 761—131.2(321), introductory paragraph, as follows:

**761—131.2(321) Erection of signs for numbered business routes.** ~~The purpose of this~~ This rule is to establish establishes signing requirements, responsibilities and procedures for the erection of signs for numbered business routes.

ITEM 3. Amend rule 761—131.3(321), introductory paragraph, as follows:

**761—131.3(321) Erection of signs for schools.** ~~The purpose of this~~ This rule is to establish establishes requirements and procedures for the erection of signs for schools.

ITEM 4. Amend rule 761—131.4(321), introductory paragraph, as follows:

**761—131.4(321) Erection of camping service signs on interstate highways.** ~~The purpose of this~~ This rule is to establish establishes requirements and procedures for the erection of camping service signs.

ITEM 5. Amend rule 761—131.5(321), introductory paragraph, as follows:

**761—131.5(321) Erection of signs for sanitary landfills.** ~~The purpose of this~~ This rule is to establish establishes requirements and procedures for the erection of signs for sanitary landfills.

ITEM 6. Amend rule 761—131.6(321), introductory paragraph, as follows:

**761—131.6(321) Erection of signs for special events.** ~~The purpose of this~~ This rule is to establish establishes requirements, procedures and responsibilities for the erection of signs for special events.

ITEM 7. Amend rule 761—131.7(321), introductory paragraph, as follows:

**761—131.7(321) Erection of signs for organized off-highway camps.** ~~The purpose of this~~ This rule is to establish establishes requirements, procedures and responsibilities for the erection of signs for organized off-highway camps.

ITEM 8. Amend rule 761—131.8(321), introductory paragraph, as follows:

**761—131.8(321) Erection of signs for county conservation parks.** ~~The purpose of this~~ This rule is to establish establishes requirements, procedures and responsibilities for the erection of signs for county conservation parks.

ITEM 9. Amend rule 761—131.9(321), introductory paragraph, as follows:

**761—131.9(321) Erection of no parking signs.** ~~The purpose of this~~ This rule is to establish establishes procedures and conditions for the erection of no parking signs on rural primary highways.

ITEM 10. Adopt the following new rule 761—131.11(314):

**761—131.11(314) Signing for Iowa medal of honor highway.** This rule establishes the procedures and requirements for private entities to purchase and pay for the installation of signs designating the Iowa medal of honor highway.

**131.11(1) Definition.** “*Iowa medal of honor highway*” means the segment of the highway known as United States Highway 20, as designated as of June 17, 2020, which crosses this state from Sioux City to Dubuque.

**131.11(2) Requirements.**

*a.* The number of signs within the highway right-of-way shall be limited to one sign at each end of the Iowa medal of honor highway for traffic entering the state and one sign at each entry point of the corporate limits of each city through which the Iowa medal of honor highway passes.

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

*b.* Each sign shall match the design approved and provided by the department, and the sign materials shall comply with departmental standard specifications as they exist at the time of fabrication. The departmental standard specifications can be found through the department's electronic reference library available on the department's website at [www.iowadot.gov](http://www.iowadot.gov).

*c.* Once signs are installed at one of the approved locations, no additional requests will be accepted for that location. When signs have been installed at all locations identified in paragraph 131.11(2) "a," no further requests will be accepted.

*d.* The applicant may purchase a sign from the department's sign shop or any other private sign shop. If an applicant chooses to obtain a sign from a private sign shop, the department will furnish the sign design and approve the construction prior to purchase. The department will also inspect the sign as stated in subrule 131.11(5).

*e.* Signs designating the Iowa medal of honor highway shall be furnished and paid for by the applicants, including any replacements needed due to sign deterioration or damage. The applicant is responsible for providing the traffic and safety bureau with the applicant's current contact information so the applicant can be contacted when a replacement sign is needed. Failure to comply with this requirement may result in removal of all signs the applicant purchased. This would allow a new private entity to sponsor the signing.

*f.* The applicant shall be responsible for the cost to install the sign, including the posts and hardware. Payment to the department must be received prior to the installation of the sign.

*g.* The department shall install the sign.

**131.11(3) Procedures.**

*a.* A written request to purchase or install a sign shall be submitted to the traffic and safety bureau.

*b.* The request shall contain the following:

- (1) The applicant's name and contact information.
- (2) A description of the location where the sign is to be installed.
- (3) If the sign will be purchased from the department or a private sign shop.

**131.11(4) Approval.** If the request complies with this rule, the traffic and safety bureau shall respond to the applicant with approval of the proposed location or modified location and an estimate of the costs for the sign and installation. Following inspection of the sign in compliance with subrule 131.11(5) and receipt of payment, the department shall install the sign.

**131.11(5) Inspection.** If a sign is not purchased from the department sign shop, the applicant shall deliver the sign to the department sign shop for inspection. Upon receipt of the sign, the department shall inspect the sign for compliance with the approved sign design and departmental specifications and notify the applicant.

ITEM 11. Amend rule 761—131.15(321) as follows:

**761—131.15(321) Information and address.** Information regarding the signing addressed in this chapter is available from: ~~Office of~~ Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. Submissions to the ~~office of~~ traffic and safety bureau shall also be sent or delivered to this address.

ITEM 12. Amend **761—Chapter 131**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 314.31, 321.252 and 321.253.

[Filed 1/14/21, effective 3/17/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5427C****TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rule making related to rights-of-way and primary road extensions**

The Department of Transportation hereby amends Chapter 150, “Improvements and Maintenance on Primary Road Extensions,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 307.12.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 306.4 and 306.42.

*Purpose and Summary*

This rule making amends subrules 150.2(1) and 150.3(1) to continue the requirement that a city shall still be responsible for providing, without cost to the Department, all necessary rights-of-way that involve dedicated streets or alleys. However, the amendments to the subrules modify the requirement that a city provide all necessary rights-of-way that involve other city-owned lands, except parklands, by stating that a city “may” (rather than “shall”) be responsible for providing them. This will enable a city to negotiate the transfer of parcels of land, instead of donating them outright to the Department.

Other amendments to Chapter 150 update two implementation sentences to add a reference to Iowa Code section 306.42, clarify terminology regarding road type, reflect the current version of an American Association of State Highway and Transportation Officials (AASHTO) publication, and correct a bureau name.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 4, 2020, as **ARC 5244C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on January 13, 2021.

*Fiscal Impact*

The fiscal impact cannot be determined. The amendments that may incur some fiscal impact to the Department and cities are subrules 150.2(1) and 150.3(1). The level of fiscal impact will depend on three highly variable factors: the number of projects that would be likely to impact city land in any given period, the size and value of the parcels in question, and the decision of the impacted city on whether the city would choose to donate or negotiate a sale with the Department instead. The potential negative fiscal impact to the Department and positive impact to cities depends on how those three variables interact.

*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.

TRANSPORTATION DEPARTMENT[761](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 17, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 150.2(1) as follows:

**150.2(1) Construction.** Except as otherwise provided, the department shall be responsible for all right-of-way and construction costs associated with the construction of ~~freeways and their~~ freeway extensions.

*a.* The city shall be responsible for providing, without cost to the department, all necessary ~~right-of-way which involves:~~

(1) ~~Dedicated rights-of-way that involve dedicated streets or alleys, and.~~

(2) *b.* ~~Other~~ The city may be responsible for providing, without cost to the department, all necessary rights-of-way that involve other city-owned lands, except parklands, subject to the condition that the department may reimburse the city for the functional replacement value of improved property and advanced purchases negotiated by the city for project purposes.

~~*b. c.*~~ Outside the access control limits, the department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction in the proportion that the street right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall be responsible for the remaining portion of ~~storm sewer~~ storm-sewer costs not paid for by the department.

~~*e. d.*~~ The department shall be responsible for all storm-sewer related costs within the access control limits.

ITEM 2. Amend subrule 150.2(2), introductory paragraph, as follows:

**150.2(2) Maintenance.** The department shall enter into an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, the maintenance responsibilities of freeway extensions within the corporate city limits, including corporate line roads, shall be as follows:

ITEM 3. Amend rule ~~761—~~**150.2(306)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 306.4, 306.42, 313.4, 313.5, 313.21 to 313.24, 313.27, 313.36, 314.5 and 314.6 and chapter 306A.

ITEM 4. Amend subrule 150.3(1) as follows:

**150.3(1) Construction.**

*a.* The department shall be responsible for all right-of-way and construction costs to construct nonfreeway primary ~~highways and their~~ highway extensions to the minimum design criteria as established by the department. Construction improvement costs beyond minimum design criteria shall be the responsibility of the city, as specified in the project agreement. Minimum design criteria shall be in accordance with "A Policy on Geometric Design of Highways and Streets, 2011 2018" (~~Sixth~~ Seventh Edition AASHTO Green Book).

*b.* The city shall be responsible for providing, without cost to the department, all necessary ~~right-of-way which involves:~~

(1) ~~Dedicated rights-of-way that involve dedicated streets or alleys, and.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

~~(2) c.~~ ~~Other~~ The city may be responsible for providing, without cost to the department, all necessary rights-of-way that involve other city-owned lands, except parklands, subject to the condition that the department may reimburse the city for the functional replacement value of improved property and advanced purchases negotiated by the city for project purposes.

~~e. d.~~ The city shall take all necessary legal action to discontinue and prohibit any past or present use of project ~~right-of-way~~ rights-of-way for private purposes. The city shall prevent any future encroachment or obstruction within the limits of project ~~right-of-way~~ rights-of-way.

~~d. e.~~ The department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction and construction of local service roads developed as a part of the construction or reconstruction of the through traffic lanes in the proportion that the right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall be responsible for the remaining portion of ~~storm-sewer~~ storm-sewer costs not paid for by the department.

~~e. f.~~ Unless otherwise mutually agreed to and specified in the project agreement, the department shall be responsible for the cost of ~~right-of-way~~ acquiring rights-of-way and construction of local service roads developed as a part of the construction or reconstruction of the through traffic lanes.

ITEM 5. Amend subrule 150.3(2), introductory paragraph, as follows:

**150.3(2) Maintenance.** The department shall enter into an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, the maintenance responsibilities of nonfreeway primary highway extensions within the corporate city limits, including corporate line roads, shall be as follows:

ITEM 6. Amend rule ~~761—150.3(306)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 306.4, 306.42, 313.5, 313.21 to 313.24, 313.27, 313.36, 314.5, 314.6 and 321E.3 and chapter 306A.

ITEM 7. Amend subrule 150.5(1) as follows:

**150.5(1) Waivers.** The director of transportation may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition must contain the information as required in 761—subrule 11.5(2) and shall be submitted to the Rules Administrator, Strategic Communications and Policy Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator's email address listed on the department's website at [iowadot.gov/administrativerules](http://iowadot.gov/administrativerules).

[Filed 1/14/21, effective 3/17/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5428C**

## **TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

**Rule making related to special permits**

The Department of Transportation hereby amends Chapter 511, "Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321E.15.



TRANSPORTATION DEPARTMENT[761](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 321.454, 321.456, 321.457 and 321E.29.

*Purpose and Summary*

This rule making updates Chapter 511 to align the rules with existing legal authority, Department practice, and Iowa Code chapters 321 and 321E as amended by 2020 Iowa Acts, House File 2310, sections 1 to 4.

These amendments strike references to the permit for divisible loads of hay, straw, stover, or bagged livestock bedding since that permit was eliminated by the Legislature and clarifies that a permit for special or emergency circumstances is also authorized under Iowa Code section 321E.29. These amendments also add a reference to the fee for a special alternative energy permit, which is set forth in Iowa Code section 321E.14 but was not previously included in Chapter 511. A technical change was made to the payment methods accepted by the Department so that the rule will align with current Department procedures.

These amendments conform with the current Department practice of permittees accessing the most up-to-date route and detour information from the [511ia.org](http://511ia.org) website, rather than having to call a person at the Department to receive the information.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 2, 2020, as **ARC 5292C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on January 13, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on March 17, 2021.

The following rule-making actions are adopted:

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

ITEM 1. Amend subrule 511.2(4), introductory paragraph, as follows:

**511.2(4)** Except as provided in ~~subrule 511.7(6) and rule 761—511.15(321,321E)~~, permits may be issued only for the transporting of a single article which exceeds statutory size or weight limits or both, and which cannot reasonably be divided or reduced to statutory size and weight limits. However, permits may be issued for the transporting of property consisting of more than one article when:

ITEM 2. Amend paragraph **511.4(2)“a”** as follows:

a. Applications for permits for movement on the primary road system shall be made online or ~~on~~ a in the form and manner prescribed by the department.

ITEM 3. Amend rule 761—511.5(321,321E) as follows:

**761—511.5(321,321E) Fees and charges.**

**511.5(1)** No change.

**511.5(2)** ~~Annual Special or emergency oversize permit for certain divisible loads.~~ A fee of \$25 ~~shall~~ may be charged for each annual single-trip permit issued pursuant to Iowa Code section 321E.29, payable prior to the issuance of the permit. Only divisible loads of hay, straw, stover, or bagged livestock bedding are permitted under this permit.

**511.5(3) to 511.5(9)** No change.

**511.5(10)** ~~Special alternative energy multitrip permit.~~ A fee of \$600 shall be charged for each special alternative energy multitrip permit issued pursuant to Iowa Code section 321E.9B, payable prior to the issuance of the permit.

~~511.5(10)~~ **511.5(11)** ~~Compacted rubbish permit.~~ A fee of \$100 shall be charged for each compacted rubbish permit, payable prior to the issuance of the permit.

~~511.5(11)~~ **511.5(12)** ~~Duplicate permit.~~ A fee of \$2 shall be charged for each duplicate permit, payable prior to the issuance of the permit.

~~511.5(12)~~ **511.5(13)** ~~Registration fee.~~ A registration fee shall be charged for vehicles transporting buildings, except mobile homes and factory-built structures, on a single-trip basis. The vehicle shall be registered for the combined gross weight of the vehicle and load. The fee shall be 5 cents per ton exceeding the weight registered under Iowa Code section 321.122 per mile of travel and shall be payable prior to the issuance of the permit. Fees shall not be prorated for fractions of miles.

~~511.5(13)~~ **511.5(14)** ~~Fair and reasonable costs.~~ Permit-issuing authorities may charge any permit applicant:

a. A fair and reasonable cost for the removal and replacement of natural obstructions or official signs and signals.

b. A fair and reasonable cost for measures necessary to avoid damage to public property including structures and bridges.

~~511.5(14)~~ **511.5(15)** ~~Methods of payment.~~ Fees and costs required under this chapter shall ~~normally~~ be paid by credit card, certified check, cashier's check, traveler's check, bank draft or cash. Personal checks may be accepted at the discretion of the permit-issuing authority in the form and manner prescribed by the department.

This rule is intended to implement Iowa Code sections 321.12, 321.122, 321E.14, 321E.29, 321E.29A and 321E.30.

ITEM 4. Amend rule 761—511.7(321,321E), introductory paragraph, as follows:

**761—511.7(321,321E) Annual permits.** Annual permits are issued for indivisible vehicles or indivisible loads for travel when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. ~~Detour Route, detour and road~~ embargo information may also be found online at: [www.511ia.org](http://www.511ia.org). Prior to making the move, the owner or operator shall contact the department by telephone at (515)237-3264 between 8 a.m. and 4:30 p.m.,

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

~~Monday through Friday, except for legal holidays, to verify that the owner or operator is using the most recent information.~~ Annual permits are issued for the following:

ITEM 5. Rescind subrule **511.7(6)**.

ITEM 6. Amend rule **761—511.7(321,321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10, ~~321E.29~~ and 321E.29A.

ITEM 7. Amend paragraph **511.8(1)“e”** as follows:

*e. Routing.* The owner or operator shall select a route using a vertical clearance map, bridge embargo map, pavement restrictions map, and construction and travel restrictions map provided by the department. ~~Detour Route, detour and road embargo information may be found online at [www.511ia.org](http://www.511ia.org). The owner or operator shall contact the department by telephone at (515)237-3264 between 8 a.m. and 4:30 p.m., Monday through Friday, except for legal holidays, prior to making the move to verify that the owner or operator is using the most recent information.~~

ITEM 8. Rescind and reserve subrule **511.9(6)**.

ITEM 9. Amend rule **761—511.9(321,321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, and 321E.10 ~~and 321E.29~~.

ITEM 10. Amend rule **761—511.12(321,321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, and 321E.9 ~~and 321E.29~~.

ITEM 11. Rescind subrule **511.15(4)**.

[Filed 1/14/21, effective 3/17/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**ARC 5429C**

**TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

**Rule making related to OWI and implied consent**

The Department of Transportation hereby amends Chapter 620, “OWI and Implied Consent,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321J.20.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 321J.20.

*Purpose and Summary*

This rule making amends Chapter 620 to conform the rules with 2020 Iowa Acts, House File 2411, sections 1 to 3, which amend Iowa Code section 321J.20 to remove participation in the 24/7 sobriety and drug monitoring program (24/7 program) as a condition of obtaining a temporary restricted license (TRL) while serving a driver's license revocation for an operating while intoxicated (OWI) offense or as a condition of reinstatement after an OWI revocation. The purpose of the legislation is to improve the effectiveness of the 24/7 program. Prior to the 2020 legislation, a person could avoid being subject to the

TRANSPORTATION DEPARTMENT[761](cont'd)

requirement to participate in the 24/7 program by declining to obtain a TRL, which also unintentionally resulted in fewer OWI offenders seeking a TRL. The 2020 legislation now provides the court with the authority to require an eligible OWI offender to participate in the 24/7 program regardless of whether that offender is also eligible for a TRL.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 16, 2020, as **ARC 5311C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on January 20, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa as it conforms with 2020 Iowa Acts, House File 2411, sections 1 to 3, which remove participation in the 24/7 sobriety and drug monitoring program as a condition of obtaining a driver's license while under revocation for or reinstating from an OWI offense.

*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.

*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 17, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind paragraph **620.3(1)“c.”**

ITEM 2. Rescind subrule **620.5(8)**.

ITEM 3. Rescind and reserve rule **761—620.17(321J)**.

ITEM 4. Amend **761—Chapter 620**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A; and 321J as amended by 2019 Iowa Acts, Senate File 364, section 1; and 901D as amended by 2019 Iowa Acts, Senate File 364, section 2; and sections 321.193, 321.201, 321.376 and 707.6A.

[Filed 1/20/21, effective 3/17/21]

[Published 2/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.

**PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR ELECTRONIC FORMAT DUE TO COVID-19**

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a Notice of Intended Action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 113 of the Governor's proclamation of disaster emergency issued January 7, 2021: [governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202021.01.07.pdf](http://governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202021.01.07.pdf)