



IOWA ADMINISTRATIVE BULLETIN

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Pages 2107 to 2166

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2019

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
20	Friday, March 8, 2019	March 27, 2019
21	Friday, March 22, 2019	April 10, 2019
22	Friday, April 5, 2019	April 24, 2019

PLEASE NOTE:

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, March 8, 2019, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Prescribing, administering, and dispensing drugs; continuing education; discipline, 16.1 to 16.7, 25.4, 30.4 Notice **ARC 4305C** 2/13/19

ECONOMIC DEVELOPMENT AUTHORITY[261]

Brownfield and grayfield redevelopment tax credit, 65.8(2)“a,” 65.11(7)“b” Notice **ARC 4281C** 2/13/19
Renewable chemical production tax credit program—definition of “building block chemical,” 81.2 Filed **ARC 4307C**..... 2/13/19

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Code of professional ethics and conduct—violations of contractual obligations, 25.3(5) Filed **ARC 4302C**..... 2/13/19

EDUCATION DEPARTMENT[281]

Suicide prevention, identification of adverse childhood experiences, strategies to mitigate toxic stress response, amendments to ch 14 Filed **ARC 4294C** 2/13/19
Use of online learning and telecommunications for instruction by schools, amendments to ch 15 Filed **ARC 4295C** 2/13/19
Open enrollment—participation in cocurricular or extracurricular activities, amendments to ch 17 Filed **ARC 4296C**..... 2/13/19
Summer college credit program, 22.33 Filed Emergency After Notice **ARC 4293C** 2/13/19
Supplementary weighting, amendments to ch 97 Filed **ARC 4297C**..... 2/13/19
Financial management of categorical funding, amendments to ch 98 Filed **ARC 4298C** 2/13/19
Corporal punishment, physical restraint, seclusion, and other physical contact with students, ch 103 Notice **ARC 4276C** 2/13/19

ENERGY AND GEOLOGICAL RESOURCES DIVISION[565]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

General; oil, gas, and metallic minerals, rescind chs 50, 51 Notice **ARC 4278C** 2/13/19

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

References to state geologist and geological survey; animal unit for small fish; reimbursement cap increase for land recycling program, amendments to chs 50 to 53, 65, 72, 82, 137 Notice **ARC 4277C** 2/13/19

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Authorized flood project fund expenditures, 14.8(1) Notice **ARC 4314C** 2/27/19

HUMAN SERVICES DEPARTMENT[441]

Assessment levels for nursing facilities, 36.6(2), 81.6(21)“b” Notice **ARC 4287C** 2/13/19
Passive managed care enrollment process, 73.1, 73.3 Notice **ARC 4289C** 2/13/19
HCBS waiver services—consumer choices option, amendments to chs 78, 79 Notice **ARC 4288C** 2/13/19

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Medicare supplement insurance, ch 37 Notice **ARC 4282C** 2/13/19

IOWA FINANCE AUTHORITY[265]

Changes to address of authority, amendments to chs 1, 7, 9, 13, 15 to 18, 22, 30, 31, 37, 44 Filed **ARC 4319C**..... 2/27/19

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Occupational safety and health—penalties, reporting, adoption by reference, 3.11(1), 4.3(1)“h” Notice **ARC 4318C**..... 2/27/19
Federal occupational safety and health standards for crane operator training—adoption by reference, 26.1 Filed **ARC 4320C** 2/27/19
ASME code cases for regulated objects—adoption by reference, 91.1(2) Filed **ARC 4303C** 2/13/19

NATURAL RESOURCES DEPARTMENT[561]

Oil, gas, and metallic minerals, ch 17 Notice **ARC 4279C** 2/13/19

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure to practice—registered nurses/licensed practical nurses, amendments to ch 3
Notice **ARC 4286C** 2/13/19
Advanced registered nurse practitioners, ch 7 Filed **ARC 4308C**..... 2/13/19

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Controlled substances—registration, prescription monitoring program, fees, temporary designation, exempted prescription products, disposal, amendments to ch 10 Notice **ARC 4290C**..... 2/13/19
Technician product verification programs, ch 40 Notice **ARC 4291C**..... 2/13/19

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Chiropractic physicians—continuing education hours, 41.6(2), 41.14(3) Amended Notice **ARC 4275C**..... 2/13/19
Funeral directors, funeral and cremation establishments—disinterment permits, 100.9(6)
Notice **ARC 4306C** 2/13/19
Podiatrists, orthotists, prosthetists, and pedorthists—continuing education, practice, discipline, 222.3, 223.5, 224.2(32) Filed **ARC 4321C**..... 2/27/19
Physician assistants—opioid prescribing practices, 326.1, 327.6(3), 328.3(2)"d," 329.2(32)
Filed **ARC 4299C**..... 2/13/19
Supervision of physician assistants at remote medical sites, 327.4(2) Filed **ARC 4300C**..... 2/13/19

REVENUE DEPARTMENT[701]

Taxable sales—services treated as sales of tangible personal property, prepaid merchandise cards, photograph and retouching services, 16.51, 16.52, 26.17 Notice **ARC 4316C**..... 2/27/19
Surcharge for enhanced 911 service—update of terminology, 18.20(1)"c," 40.3, 40.39, 224.4(7), 224.8 Filed **ARC 4309C** 2/13/19
Delivery sales of alternative nicotine products or vapor products, amendments to ch 82
Filed **ARC 4322C**..... 2/27/19
Deferred life estates and remainder interest, 86.14(9) Filed **ARC 4310C**..... 2/13/19
Local option sales and services tax, amendments to ch 107 Filed **ARC 4323C**..... 2/27/19
Remote sales and marketplace sales, ch 215 Notice **ARC 4292C** 2/13/19
Sourcing of taxable services, tangible personal property, and specified digital products, amendments to ch 223 Filed **ARC 4324C** 2/27/19
Flood mitigation program—use of moneys from a flood mitigation fund, 238.4 Filed **ARC 4311C** 2/13/19

TRANSPORTATION DEPARTMENT[761]

Tourist-oriented directional signing, 119.1, 119.2, 119.4(1)"a," 119.5(4), 119.6 Notice **ARC 4317C** 2/27/19
Nonoperator’s identification, 630.1(2), 630.2 Notice **ARC 4313C** 2/27/19

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Procedures for determining competitiveness of a communications service or facility, 5.1 to 5.5, 5.8 Notice **ARC 4283C**..... 2/13/19
Approval of appraiser for municipal utilities, 32.10 Notice **ARC 4315C** 2/27/19
Energy efficiency and demand response planning and reporting for natural gas and electric utilities required to be rate-regulated, ch 35 Notice **ARC 4285C** 2/13/19
Electric interconnection of distributed generation facilities, 45.1, 45.5(10), 45.6(2) Notice **ARC 4284C**..... 2/13/19

WORKERS’ COMPENSATION DIVISION[876]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Payroll tax tables, 8.8 Notice **ARC 4312C** 2/27/19

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Eligibility requirements for vocational training programs, 24.39(2) Filed **ARC 4301C** 2/13/19

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

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St. Ansgar, Iowa 50472

Senator Mark Costello
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Imogene, Iowa 51645

Senator Robert Hogg
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Cedar Rapids, Iowa 52406

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Des Moines, Iowa 50317

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

EDUCATION DEPARTMENT[281]

Corporal punishment, physical restraint, seclusion, and other physical contact with students, ch 103
IAB 2/13/19 ARC 4276C

State Board Room, Second Floor
Grimes State Office Bldg.
Des Moines, Iowa

March 5, 2019
9 to 10 a.m.

ENERGY AND GEOLOGICAL RESOURCES DIVISION[565]

General; oil, gas, and metallic minerals, rescind chs 50, 51
IAB 2/13/19 ARC 4278C

Conference Room 4 West
Wallace State Office Bldg.
Des Moines, Iowa

March 5, 2019
10 a.m. to 12 noon

ENVIRONMENTAL PROTECTION COMMISSION[567]

References to state geologist and geological survey; animal unit for small fish; reimbursement cap increase for land recycling program, amendments to chs 50 to 53, 65, 72, 82, 137
IAB 2/13/19 ARC 4277C

Conference Room 4 West
Wallace State Office Bldg.
Des Moines, Iowa

March 5, 2019
10 a.m. to 12 noon

INSURANCE DIVISION[191]

Medicare supplement insurance, ch 37
IAB 2/13/19 ARC 4282C

Division Offices, Fourth Floor
Two Ruan Center
601 Locust St.
Des Moines, Iowa

March 8, 2019
10 to 11 a.m.

LABOR SERVICES DIVISION[875]

Occupational safety and health—penalties, reporting, adoption by reference, 3.11(1), 4.3(1)“h”
IAB 2/27/19 ARC 4318C

150 Des Moines St.
Des Moines, Iowa

March 20, 2019
9 a.m.
(If requested)

NATURAL RESOURCES DEPARTMENT[561]

Oil, gas, and metallic minerals, ch 17
IAB 2/13/19 ARC 4279C

Conference Room 4 West
Wallace State Office Bldg.
Des Moines, Iowa

March 5, 2019
10 a.m. to 12 noon

NURSING BOARD[655]

Licensure to practice—registered nurses/licensed practical nurses, amendments to ch 3
IAB 2/13/19 ARC 4286C

Board Office, Suite B
400 S.W. 8th St.
Des Moines, Iowa

March 8, 2019
9 to 10 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Funeral directors, funeral and cremation establishments—disinterment permits, 100.9(6) IAB 2/13/19 ARC 4306C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	March 5, 2019 7:30 to 8 a.m.
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REVENUE DEPARTMENT[701]

Remote sales and marketplace sales, ch 215 IAB 2/13/19 ARC 4292C	Room 430, Fourth Floor Hoover State Office Bldg. Des Moines, Iowa	March 5, 2019 9 to 10 a.m.
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TRANSPORTATION DEPARTMENT[761]

Tourist-oriented directional signing, 119.1, 119.2, 119.4(1)“a,” 119.5(4), 119.6 IAB 2/27/19 ARC 4317C	Department of Transportation Administration Bldg. Second Floor Conference Room 800 Lincoln Way Ames, Iowa	March 21, 2019 10 a.m. (If requested)
Nonoperator’s identification, 630.1(2), 630.2 IAB 2/27/19 ARC 4313C	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	March 21, 2019 1 p.m. (If requested)

UTILITIES DIVISION[199]

Approval of appraiser for municipal utilities, 32.10 IAB 2/27/19 ARC 4315C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 2, 2019 8:30 to 10:30 a.m.
Energy efficiency and demand response planning and reporting for natural gas and electric utilities required to be rate-regulated, ch 35 IAB 2/13/19 ARC 4285C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	March 13, 2019 9 to 11 a.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 4314C

**HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DEPARTMENT[605]****Notice of Intended Action****Proposing rule making related to flood project fund expenditures and providing an
opportunity for public comment**

The Department of Homeland Security and Emergency Management hereby proposes to amend Chapter 14, "Flood Mitigation Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 418.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 418.13.

Purpose and Summary

This Notice of Intended Action proposes to implement 2018 Iowa Acts, chapter 1124, by amending Chapter 14. The proposed amendment adds reimbursement of the governmental entity for costs of the approved project incurred after the project's approval to the list of authorized expenditures for the governmental entity's flood project fund.

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.

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 19, 2019. Comments should be directed to:

John Benson
Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50265
Email: john.benson@iowa.gov

Public Hearing

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

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](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 action is proposed:

Amend subrule 14.8(1) as follows:

14.8(1) Each governmental entity that has a project approved by the board and is awarded funds from either the flood mitigation fund or sales tax increment fund shall create a separate flood project fund. The fund shall be used to pay the costs associated with the governmental entity's approved project, to reimburse the governmental entity for the costs of the approved project incurred after the project's approval, and to pay the principal and interest on bonds issued pursuant to Iowa Code section 418.14.

ARC 4318C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

**Proposing rule making related to occupational health
and safety and providing an opportunity for public comment**

The Labor Commissioner hereby proposes to amend Chapter 3, "Posting, Inspections, Citations and Proposed Penalties," and Chapter 4, "Recording and Reporting Occupational Injuries and Illnesses," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 88.5 and 88.14.

State or Federal Law Implemented

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

Purpose and Summary

Iowa's occupational safety and health program is required to be at least as effective as the federal occupational safety and health program. The proposed amendments would align Iowa's occupational safety and health program with the federal program. Item 1 aligns Iowa's penalties for occupational safety and health citations with the corresponding federal penalties by making an annual cost-of-living adjustment. Item 2 adopts by reference a recent change rescinding a federal requirement for larger employers to make electronic reports of injuries and illnesses.

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.

LABOR SERVICES DIVISION[875](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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on March 20, 2019. Comments should be directed to:

Kathleen Uehling
Division of Labor Services
150 Des Moines Street
Des Moines, Iowa 50319-0209
Email: 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 20, 2019
9 a.m.

150 Des Moines St.
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 3.11(1) as follows:

3.11(1) The civil penalties proposed by the labor commissioner on or after ~~June 30, 2018~~ May 29, 2019, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than ~~\$9,239~~ \$9,472 and shall not exceed ~~\$129,336~~ \$132,598.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed ~~\$129,336~~ \$132,598.

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed ~~\$12,934~~ \$13,260.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed ~~\$12,934~~ \$13,260.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed ~~\$12,934~~ \$13,260 per day.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 2. Adopt the following **new** paragraph **4.3(1)“h”**:
h. 84 Fed. Reg. 405 (January 25, 2019)

ARC 4316C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to photography and retouching services and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 16, “Taxable Sales,” and Chapter 26, “Sales and Use Tax on Services,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.2.

Purpose and Summary

Item 1 removes photography and retouching services from the category of services treated as tangible personal property, pursuant to 2018 Iowa Acts, Senate File 2417, section 169, by amending rule 701—16.51(422,423). Item 1 also removes some duplicative language relating to vulcanization and includes other organizational, nonsubstantive edits.

Item 2 rescinds outdated rule 701—16.52(422,423), the content of which was previously updated and adopted as rule 701—214.2(423).

Item 3 adopts rule 701—26.17(423), whose language is substantially similar to that in current rule 701—16.51(422,423) but includes photography and retouching services, which were added to the list of taxable enumerated services by 2018 Iowa Acts, Senate File 2417, section 170. Also, the definitions of “photography” and “retouching” in rule 701—26.17(423), unlike those in current rule 701—16.51(422,423), reflect that photography and retouching services are no longer tied to the production of tangible personal property and that the definitions include digital photography and digital retouching. Finally, the new rule provides examples of general taxable photography and retouching services.

Fiscal Impact

This rule making has no fiscal impact beyond the impact estimated by the Legislative Services Agency for 2018 Iowa Acts, Senate File 2417.

Jobs Impact

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

Waivers

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

REVENUE DEPARTMENT[701](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 19, 2019. Comments should be directed to:

Joe Fraioli
 Department of Revenue
 Hoover State Office Building
 P.O. Box 10457
 Des Moines, Iowa 50306
 Phone: 515.725.4057
 Email: joe.fraioli@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 701—16.51(423) as follows:

701—16.51(422,423) Sales of services treated as sales of tangible personal property.

16.51(1) *Generally.* ~~Effective July 1, 1984, For purposes of the imposition of Iowa sales and use tax, the sale of the following services are treated as the sale of tangible personal property: engraving, photography, retouching, printing, and binding services is no longer the sale of enumerated services but the sale of tangible personal property, vulcanizing, recapping, and retreading.~~ For the purposes of this subrule these services will be referred to as “property.”

~~a. 16.51(2) *Definitions and characterizations.*~~

~~(1) “Binding.”~~ Persons engaged in the business of binding any printed matter, other than for the purpose of ultimate sale at retail, are engaged in the sale of property, the gross receipts of which are subject to tax.

~~(2) “Engraving”~~ includes the business of engraving on wood, metal, stone, or any other material.

~~(3) “Photography” is the art or process of producing images or objects upon a photosensitive surface by the chemical action of light or other radiant energy.~~

~~(4) “Printing”~~ includes, but is not limited to, any type of printing, lithographing, mimeographing, photocopying and similar reproduction. The following activities are nonexclusive examples of property ~~which are~~ subject to tax: printing of pamphlets, leaflets, stationery, envelopes, folders, bond and stock certificates, abstracts, law briefs, business cards, matchbook covers, campaign posters and banners for the users thereof.

~~“Vulcanizing”~~ means the act or process of treating crude rubber, synthetic rubber, or other rubberlike material with a chemical and subjecting it to heat in order to increase its strength and elasticity.

~~(5) “Retouching”~~ includes the renovation or retouching of an existing likeness or design.

~~b. Reserved.~~

REVENUE DEPARTMENT[701](cont'd)

~~16.51(2)~~ Effective May 18, 1984, the sale of vulcanizing, recapping and retreading services is no longer the sale of enumerated services, but is the sale of tangible personal property. For the purposes of this subrule these services will also be referred to as “property.”

~~a.~~—“Vulcanizing” means the act or process of treating crude rubber, synthetic rubber, or other rubber-like material with a chemical and subjecting it to heat in order to increase its strength and elasticity.

~~b.~~—The effective date of the statute mandating change in the treatment of vulcanizing, recapping and retreading is May 18, 1984. However, the change in the treatment of this property is retroactive to January 1, 1979. The statute provides that no tax may be assessed for a retailer’s treatment of the sale of this property as the sale of tangible personal property between the dates January 1, 1979, and May 17, 1984, inclusive. However, no refund may be claimed on any tax collected prior to May 18, 1984, if the basis for the refund claim is the argument that the sale of vulcanizing, recapping and retreading services is the sale of tangible personal property.

~~16.51(3)~~ *Prepaid calling cards and wireless calling services.* Effective July 1, 1997, sales of prepaid telephone calling cards and prepaid authorization numbers which furnish the holder with communication service are taxable as sales of tangible personal property. See rule ~~16.52(422,423)~~ below 701—214.2(423) for an explanation of the sales tax treatment of other types of prepaid merchandise cards.

This rule is intended to implement Iowa Code sections ~~422.43 and 423.1~~ 423.2(1)“a”(1) to 423.2(1)“a”(3).

ITEM 2. Rescind rule ~~701—16.52(422,423)~~.

ITEM 3. Rescind rule 701—26.17(422) and adopt the following new rule in lieu thereof:

701—26.17(423) Photography and retouching.

26.17(1) Definitions.

“*Photography*” means the art or process of capturing or producing still or moving images, films, or videos using any device designed to record or capture images, film, or video. Taxable sales associated with photography services include but are not limited to sitting or photoshoot fees and fees relating to taking or producing photographs or videos, including editing.

“*Retouching*” means the alteration, restoration, or renovation of a picture, film, video, image, artwork, likeness, or design.

26.17(2) Taxation generally. Beginning July 1, 2018, the sales price of photography services and retouching services are taxable regardless of whether the service results in the production of tangible personal property or specified digital products.

EXAMPLE 1: Standalone photography service. X operates a photography business where customers can purchase a half-hour photoshoot session for \$50 and may purchase physical or electronic copies of any photographs taken during the photoshoot for \$10 each. Y purchases a half-hour photoshoot from X for \$50; however, after viewing the images, Y decides not to purchase any copies of any of the photographs. X must collect and remit sales tax and any applicable local option tax on \$50, the cost of the photography service, even though Y decided not to purchase any of the resulting photographs.

EXAMPLE 2: Photography service and sale of photographs. Same facts as Example 1, except that Y decides to purchase ten photographs for \$10 each. X must collect and remit sales tax and any applicable local option tax on \$150, the total cost of the \$50 photography service and the \$100 cost of the ten photographs. Here, the photography service is taxable and the photographs are taxable as the sale of tangible personal property if they are delivered in hard copy or as the sale of specified digital products if they are delivered electronically.

This rule is intended to implement Iowa Code sections 423.2(6) “*bo*” and 423.2(6) “*bp*.”

ARC 4317C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to tourist-oriented directional signing and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 119, “Tourist-Oriented Directional Signing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.252.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.252.

Purpose and Summary

This rule making proposes amendments to Chapter 119, which provides rules for the establishment of tourist-oriented directional signing on Iowa’s primary highways. The proposed amendments clarify the definition of “primary highway” in rule 761—119.1(321) by adding the language used for “primary road system” in Iowa Code section 306.3(6). Currently, the definition does not actually define the term; rather it excludes portions of the meaning found in Iowa Code section 306C.10.

The proposed amendments also clarify that the Department is responsible for determining whether sufficient space exists in which to place the tourist-oriented directional signs. The amendments clarify the process for determining which businesses may participate when conditions may limit the number of signs that can be placed near an intersection, and strike a provision for “advance signing,” which is not used in Iowa. Likely, the advance signing provision had been included because the Manual on Uniform Traffic Control Devices (MUTCD) provided for it. However, the provision is unnecessary; the Department installs the signs at an appropriate distance from the intersection, allowing motorists sufficient time to identify, react to, and make the turn. If there is a safety question regarding existing sign placements, the Department can investigate whether the signs are appropriately distanced from the intersection.

This rule making also proposes changes to the types of services that may qualify for the motorist service category of the signing program by replacing the word “gas” with “fueling stations,” which may include alternative fuels, and by replacing the word “passenger” with “motor” so that the phrase reads “motor vehicle service or repair.” The term “gas,” though undefined by this chapter, is generally thought to exclude other fuels that do not consist of refined petroleum or gasoline. There is an increasing demand from the motoring public and environmental and industry groups to identify facilities that offer alternative fuels. The amendment will allow facilities that offer diesel, biodiesel, electricity, hydrogen, compressed natural gas, and other alternative fuels to be eligible for the program. The phrase “motor vehicle service or repair” provides less specificity for qualification purposes and allows for the consideration of businesses which are service-oriented toward motorcycles, recreational vehicles and trucks.

This rule making also proposes to rescind subrule 119.5(4) and to move existing language which states that the Department will hold a lottery if the number of approved applicants exceeds the number of spaces available to subrule 119.2(2). Although the requests rarely exceed the spaces available, the provision fits more appropriately in subrule 119.2(2), concerning spacing and location. A clarification is added that existing participants in the program will not be at risk for losing their signs in a lottery drawing.

Furthermore, the proposed amendments strike subrule 119.6(4) concerning the additional services the Department may perform regarding the modification of a tourist-oriented directional sign. After

TRANSPORTATION DEPARTMENT[761](cont'd)

review of this subrule, the Department found a lack of applicability to any situation, and the \$50 service fee included is not levied by the Department. The message for the sign is fixed and not intended for modification.

In addition, the proposed amendments clarify language concerning the fees relating to tourist-oriented directional signing. Current subrule 119.6(3) requires an unspecified amount for the cost of sign fabrication and installation. The proposed amendment to subrule 119.6(3) specifies the actual total amount due, which includes the \$100 initial fee. These amendments do not increase the fees; the fees indicated reflect the amounts that have been charged since 1996.

Finally, the proposed amendments strike existing language regarding not-for-profit organizations and add a new subrule concerning not-for-profit organizations to allow an organization to receive a limit of one set of free signs. If the not-for-profit organization requests additional signs, the organization will be charged the fee as specified in subrule 119.6(3). This change retains the ability of these organizations to obtain free signing for the appropriate intersections while eliminating the incentive to “blanket” the region with signs paid for by public moneys. Businesses and not-for-profit organizations can certainly request more than one set of signs if the activity or site is located within a qualifying range of eligible intersections; however, the business or not-for-profit organization will need to pay the fee. The primary intent of the program is to provide tourist-related and motorist service information for the traveling public, and only secondarily to provide a means of advertising for the organization making the application.

The development and revision of Chapter 119 requires consultation and approval from a multiagency committee known as the Iowa Tourist Signing Committee established in Iowa Code section 321.252(3). The Committee approved these proposed amendments.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The fees identified in the rule amendment have been in place since 1996 and are not being increased. The fiscal impact to not-for-profit organizations caused by limiting the number of free signs should be negligible. The vast majority of these organizations are only expecting to have one set of signs installed at the nearest and most appropriate intersection, and these signs will continue to be provided free of charge. For the few organizations that would have otherwise obtained multiple sets of signs (likely because they were free), the Department anticipates that the organizations will apply for the single set rather than spending money on additional sets.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 19, 2019. Comments should be directed to:

TRANSPORTATION DEPARTMENT[761](cont'd)

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

Public Hearing

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

March 21, 2019
 10 a.m.

Department of Transportation
 Administration Building, Second Floor
 Conference Room
 800 Lincoln Way
 Ames, Iowa

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

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **761—119.1(321)**, definition of "Primary highway," as follows:
"Primary highway," for the purpose of this chapter, means those roads and streets both inside and outside the boundaries of municipalities which are under department jurisdiction but does not include an interstate highway or a freeway primary highway as defined in Iowa Code section 306C.10.

ITEM 2. Amend rule 761—119.2(321) as follows:

761—119.2(321) General.

119.2(1) No change.

119.2(2) *Spacing and location.*

a. Tourist-oriented directional signing shall be installed only when sufficient space is available. The determination of whether sufficient space is available is the responsibility of the department in accordance with the MUTCD and department policies. If the number of applications exceeds the capacity to accommodate all of the requests, a lottery drawing shall be held to determine which applications will be accepted. However, activities and sites which are already participating in the tourist-oriented directional signing program shall not be subject to the lottery drawing, provided that each applicant's participation remains in compliance with this chapter, including the timely payment of fees.

b. to e. No change.

~~**119.2(3)** *Advance signing.* Advance signing authorized by the MUTCD may be installed where the department determines that advance notification of an activity or site would reduce vehicle conflicts and improve highway safety.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

~~119.2(4)~~ **119.2(3)** *Message.* The message on a tourist-oriented directional sign is limited to a descriptive name, a directional arrow, ~~and the travel distance to the activity or site, and in some cases for motorist services, an additional short word or acronym indicating an essential fuel type such as diesel, E-85, or EV (electric vehicle charging station).~~ However, if an agricultural business activity offers tours, the message for the activity shall include the word “tours.”

ITEM 3. Amend paragraph **119.4(1)“a”** as follows:

a. A service of significant interest to motorists may qualify. The types of services which may qualify include, but are not limited to: gas, fueling stations, including those that offer alternative fuels; food; lodging; or passenger; and motor vehicle service or repair.

ITEM 4. Rescind subrule **119.5(4)**.

ITEM 5. Amend rule 761—119.6(321) as follows:

761—119.6(321) Installation, maintenance, replacement and removal.

119.6(1) *Installation and maintenance of tourist-oriented directional signs.* Except as provided in subrule ~~119.6(5)~~ **119.6(4)**, the department shall fabricate and perform all required installation, maintenance, removal and replacement of tourist-oriented directional signs that are located within the right-of-way.

a. No change.

b. A tourist-oriented directional sign ~~for a for-profit activity or site~~ shall not be installed until the applicant has paid the department the initial fee specified in subrule 119.6(3). ~~If the activity or site is not for profit, the department shall fabricate and install the sign and provide normal maintenance at no cost to the applicant.~~

119.6(2) *Installation and maintenance of trailblazing signs.* If the activity or site is not located adjacent to the secondary road or city street intersecting the primary route, trailblazing signs are required. Trailblazing signs shall conform to requirements in the MUTCD.

a. No change.

b. Trailblazing signs ~~for a for-profit activity or site~~ shall not be installed until the applicant has paid the department a fee for the cost of sign fabrication.

c. No change.

119.6(3) *Fees Initial and renewal fees.* The initial fee, payable once an application is approved, is ~~\$100 per sign plus \$350 for each 72" x 18" sign placed along the primary highway and \$26 for each trailblazing sign placed along a nonprimary highway.~~ These fees include the cost of sign fabrication and installation but do not include any additional fees which may be required by local jurisdictions for the placement of trailblazing signs along local road systems. The annual renewal fee, payable on or before June 30 of each year, is \$50 per sign, ~~which excluding trailblazing signs.~~ This fee covers the administrative costs and normal maintenance. These fees apply to for-profit activities or sites only.

119.6(4) *Additional services.* ~~The department may perform additional services requested for an activity or site in connection with the modification of a tourist-oriented directional sign. If the sign is for a for-profit activity or site, the activity or site shall prepay a \$50 service charge plus the cost of any required new or renovated sign.~~

~~119.6(5)~~ **119.6(4)** *Seasonal activity or site.* A tourist-oriented directional sign for a seasonal activity or site must either be masked or have a “closed” panel installed over the sign’s directional information when the activity or site is closed or when the hours of operation decrease below the minimum requirements during the off-season period. Either the department or the activity or site with the department’s permission shall perform the work. If the department performs the work, the approved applicant must pay the actual cost to install and remove the “closed” panel or to mask the sign.

~~119.6(6)~~ **119.6(5)** *Required replacement.*

a. The department shall determine when a tourist-oriented directional sign is no longer serviceable and needs to be replaced. ~~A for-profit~~ If such a determination is made, the activity or site must pay for the cost of a new sign and its installation prior to installation. ~~If the activity or site is not for profit, the department shall replace the sign at no cost to the activity or site.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

b. The department is not responsible for theft of tourist-oriented directional signs or damage to them caused by vandalism, vehicle accidents, or natural causes. If a sign ~~for a for-profit activity or site~~ requires repair or replacement due to theft or damage, the activity or site must pay the cost of a new sign and its installation. At the activity's or site's request, this cost may be spread over a 12-month period. ~~If the activity or site is not for profit, the department shall repair or replace the sign at no cost to the activity or site.~~

119.6(6) *Not-for-profit organizations.* A not-for-profit organization operating an activity or site in accordance with the requirements of this chapter is exempted from all fees and costs associated with the installation and maintenance of a single set of signs at a location determined by the department to be the most reasonable approach to the destination. If additional locations are requested by the not-for-profit organization, all fees and costs described in this chapter shall apply to the additional locations.

119.6(7) *Removal.* The department shall remove a tourist-oriented directional sign if the activity or site no longer qualifies for tourist-oriented directional signing. As official signs, all tourist-oriented directional signs are the property of the department and shall not be given to applicants upon the signs' removal.

ARC 4313C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to nonoperator's identification
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 630, "Nonoperator's Identification," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.190.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.190.

Purpose and Summary

This proposed rule making makes technical changes to Chapter 630 by updating terminology from "driver's license examination station" to "driver's license service center" and by removing an outdated effective date.

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.

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

TRANSPORTATION DEPARTMENT[761](cont'd)

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 19, 2019. Comments should be directed to:

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

Public Hearing

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

March 21, 2019
 1 p.m.

Department of Transportation
 Motor Vehicle Division
 6310 SE Convenience Boulevard
 Ankeny, Iowa

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

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 630.1(2) as follows:

630.1(2) Information concerning the nonoperator's identification card is available at any driver's license ~~examination station~~, service center or at the address in 761—600.2(17A).

ITEM 2. Amend subrule 630.2(1) as follows:

630.2(1) An applicant for a nonoperator's identification card shall complete and sign an application form at a driver's license ~~examination station~~ service center. The signature shall be without qualification and shall contain only the applicant's usual signature without any other titles, characters or symbols.

ITEM 3. Amend subrule 630.2(9) as follows:

630.2(9) ~~Beginning January 15, 2013, a~~ A nonoperator's identification card that is not issued as a REAL ID nonoperator's identification card as defined in subrule 630.2(7) may be marked as required by 6 CFR 37.71 and any subsequent guidance issued by the U.S. Department of Homeland Security.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Ronald L. Hansen, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for February is 4.75%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective February 9, 2019, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .40%
32-89 days	Minimum .40%
90-179 days	Minimum .50%
180-364 days	Minimum .70%
One year to 397 days	Minimum 1.00%
More than 397 days	Minimum 1.10%

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

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

USURY

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

USURY(cont'd)

March 1, 2018 — March 31, 2018	4.50%
April 1, 2018 — April 30, 2018	4.50%
May 1, 2018 — May 31, 2018	4.50%
June 1, 2018 — June 30, 2018	4.50%
July 1, 2018 — July 31, 2018	5.00%
August 1, 2018 — August 31, 2018	5.00%
September 1, 2018 — September 30, 2018	5.00%
October 1, 2018 — October 31, 2018	5.00%
November 1, 2018 — November 30, 2018	5.00%
December 1, 2018 — December 31, 2018	5.25%
January 1, 2019 — January 31, 2019	5.00%
February 1, 2019 — February 28, 2019	4.75%
March 1, 2019 — March 31, 2019	4.75%

ARC 4315C**UTILITIES DIVISION[199]****Notice of Intended Action****Proposing rule making related to approval of utility system appraisers and providing an opportunity for public comment**

The Utilities Board hereby proposes to amend Chapter 32, “Reorganization,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 388.2A.

Purpose and Summary

The General Assembly enacted a new statutory provision (Iowa Code section 388.2A(2)“a”(1)) that requires a city proposing to sell a city utility to obtain two appraisals, one of which must be obtained from an appraiser approved by the Utilities Board. The proposed rule establishes procedures for a governing body of a city utility to request approval of an appraiser from the Utilities Board.

The Board issued an order commencing rule making on February 11, 2019. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2018-0032.

Fiscal Impact

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

Jobs Impact

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

UTILITIES DIVISION[199](cont'd)

Waivers

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 rule 199—1.3(17A,474,476).

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 19, 2019. Comments should be directed to:

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

Public Hearing

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

April 2, 2019
8:30 to 10:30 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** rule 199—32.10(388):

199—32.10(388) Approval of appraiser for municipal utilities. Pursuant to Iowa Code section 388.2A(2) “a”(1), in order to dispose of a city utility by sale, the governing body of a city utility shall determine the fair market value of the utility system that is being considered for sale after obtaining two appraisals from independent appraisers, one of which is to be obtained from an independent appraiser approved by the board. The appraisals must be conducted in conformance with the uniform standards of professional appraisal practice or substantially similar standards. The procedures for requesting board approval of an appraiser are as follows:

32.10(1) Making a request. To request board approval of an appraiser to appraise a city utility, the governing body of the city utility shall file a request in the board's electronic filing system. The request shall contain the following information:

- a. The name of the city and legal name of the utility;
- b. The type of utility service provided by the utility;

UTILITIES DIVISION[199](cont'd)

c. The total number of customers served by the utility and the number of customers served by class, if applicable;

d. A description of the assets owned by the utility, including any equipment, buildings, or other facilities used in providing the utility service; and

e. The name and contact information for the city or utility.

32.10(2) Consideration of request. When a request for approval of an appraiser is received by the board, board staff shall review the request and provide the board with a recommendation or a list of appraisers for the board to consider approving. The board may delegate approval authority to the board chair.

32.10(3) Notice of approved appraiser. After review of the staff recommendation, the board shall notify the city and governing body of the city utility of an approved appraiser. If the city and governing body of the city utility are unable to agree to terms with an approved appraiser, the city and governing body of the city utility may file a letter with the board requesting approval of another appraiser. In support of the request for another appraiser, the city and governing body of the city utility shall identify the reasons why they are requesting the board to approve another appraiser.

This rule is intended to implement Iowa Code section 388.2A(2)“a”(1).

ARC 4312C**WORKERS' COMPENSATION DIVISION[876]****Notice of Intended Action****Proposing rule making related to payroll tax tables
and providing an opportunity for public comment**

The Workers' Compensation Commissioner hereby proposes to amend Chapter 8, “Substantive and Interpretive Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 86.8.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 85.61(6).

Purpose and Summary

This proposed amendment updates references to the tables which determine payroll taxes.

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

This amendment does not include a waiver provision because rule 876—12.4(17A) provides the specific situations for waiver of Workers' Compensation Division rules.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on March 19, 2019. Comments should be directed to:

WORKERS' COMPENSATION DIVISION[876](cont'd)

Heather Palmer
Workers' Compensation Division
1000 East Grand Avenue
Des Moines, Iowa 50319
Email: heather.palmer@iwd.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 876—8.8(85,17A) as follows:

876—8.8(85,17A) Payroll tax tables. Tables for determining payroll taxes to be used for the period July 1, ~~2018~~ 2019, through June 30, ~~2019~~ 2020, are the tables in effect on July 1, ~~2018~~ 2019, for computation of:

1. Federal income tax withholding according to the percentage method of withholding for weekly payroll period. (Internal Revenue Service, Employer's Supplemental Tax Guide, Publication 15-A [2018].)
2. Iowa Withholding Tax Guide. (Iowa Department of Revenue Iowa Withholding Tax Rate Tables [Effective ~~April 1, 2006~~ January 1, 2019].)
3. Social Security and Medicare withholding (FICA) at the rate of 7.65 percent. (Internal Revenue Service, Circular E, Employer's Tax Guide, Publication 15 [2018].)

This rule is intended to implement Iowa Code section 85.61(6).

ARC 4319C

IOWA FINANCE AUTHORITY[265]**Adopted and Filed****Rule making related to changes to address of authority**

The Iowa Finance Authority hereby amends Chapter 1, “General,” Chapter 7, “Contested Cases,” Chapter 9, “Title Guaranty Division,” Chapter 13, “Public Records and Fair Information Practices,” Chapter 15, “Purchasing,” Chapter 16, “Declaratory Orders,” Chapter 17, “Procedure for Rule Making,” Chapter 18, “Waivers and Variances from Administrative Rules,” Chapter 22, “Iowa Aftercare Services Rent Subsidy Program,” Chapter 30, “Qualified Midwestern Disaster Area Bond Allocation,” Chapter 31, “Council on Homelessness,” Chapter 37, “Recovery Zone Bond Allocation,” and Chapter 44, “Iowa Agricultural Development Division,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.5.

Purpose and Summary

The purpose of these amendments is to update the Authority’s address throughout the Authority’s administrative rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 2, 2019, as **ARC 4196C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority on February 6, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

IOWA FINANCE AUTHORITY[265](cont'd)

Effective Date

This rule making will become effective on April 3, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 1.3(1) as follows:

1.3(1) Location. The main office of the authority is located at ~~2015 Grand Avenue~~ 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50312 50315. Office hours for the authority are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

The title guaranty division (division) of the authority is located at ~~2015 Grand Avenue~~ 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50312 50315. Office hours for the division are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Additional information concerning the division can be found in Chapter 9 of the authority's administrative rules (265—Chapter 9).

The authority's ~~Web site~~ website address is www.iowafinanceauthority.gov, and its telephone and facsimile numbers are: (515)725-4900 (general); 1-800-432-7230 (toll-free); 1-800-618-4718 (TTY); and (515)725-4901 (facsimile).

ITEM 2. Amend subrule 7.12(3) as follows:

7.12(3) Filing—when required. After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the Executive Director, Iowa Finance Authority, ~~2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16). All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the authority.

ITEM 3. Amend subrule 7.12(4) as follows:

7.12(4) Filing—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Iowa Finance Authority, ~~2015 Grand Avenue, Des Moines, Iowa 50312~~ at its office located at the address set forth in rule 265—1.3(16), delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

ITEM 4. Amend subrule 9.4(1) as follows:

9.4(1) Location. The office of the division is located at ~~2015 Grand Avenue, Des Moines, Iowa 50312~~ the address set forth in rule 265—1.3(16). Office hours are 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The division's ~~Web site~~ website address is www.iowatitleguaranty.gov, and the division's telephone and facsimile numbers are as follows: (515)725-4900 (general telephone number); 1-800-432-7230 (toll-free telephone number); and (515)725-4901 (facsimile). The division's ~~e-mail~~ email address is titleguaranty@iowa.gov. Inquiries, submissions, applications and other requests for information may be directed to the division at the address set forth herein. Requests may be made personally or by telephone, fax, mail or ~~e-mail~~ email.

ITEM 5. Amend subrule 13.3(1) as follows:

13.3(1) Location of record. A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to Iowa Finance Authority, ~~2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16). The Iowa finance authority will forward the request to the appropriate person.

ITEM 6. Amend rule 265—15.15(16) as follows:

265—15.15(16) Vendor appeals. Any vendor whose bid or proposal has been timely filed and who is aggrieved by the award of the authority may appeal the decision by filing a written notice of appeal before the Iowa Finance Authority Board, ~~2015 Grand Avenue, Des Moines, Iowa 50312~~, at the address set forth in rule 265—1.3(16) within three days of the date of the award, exclusive of Saturdays, Sundays, and state legal holidays. The notice of appeal must actually be received at ~~this~~ that address within the time frame specified to be considered timely. The notice of appeal shall state the grounds upon which the vendor challenges the authority's award. Following receipt of a notice of appeal which has been timely

IOWA FINANCE AUTHORITY[265](cont'd)

filed, the board shall notify the aggrieved vendor and the vendor who received the contract award of the procedures to be followed in the appeal. The board may appoint a designee to proceed with the appeal on its behalf.

ITEM 7. Amend rule 265—16.1(17A), introductory paragraph, as follows:

265—16.1(17A) Petition for declaratory order. Any person may file a petition with the authority for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the authority, at ~~Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312~~ the address set forth in rule 265—1.3(16). A petition is deemed filed when it is received by ~~that office~~ the authority. The authority shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the authority an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 8. Amend subrule 16.3(3), introductory paragraph, as follows:

16.3(3) A petition for intervention shall be filed at ~~Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16). Such a petition is deemed filed when it is received by ~~that office~~ the authority. The authority will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 9. Amend rule 265—16.5(17A) as follows:

265—16.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Executive Director, ~~of the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16).

ITEM 10. Amend subrule 16.6(2) as follows:

16.6(2) Filing—when required. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Iowa Finance Authority, ~~2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16). Petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the authority.

ITEM 11. Amend subrule 17.5(1) as follows:

17.5(1) Written comments. For at least 20 days after publication of the Notice of Intended Action, persons may submit argument, data, and views, in writing, on the proposed rule. Such written submissions should identify the proposed rule to which they relate and should be submitted to the Executive Director, ~~of the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16), or the person designated in the Notice of Intended Action.

ITEM 12. Amend subrule 17.5(5) as follows:

17.5(5) Accessibility. The authority shall schedule oral proceedings in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the Executive Director, ~~of the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16), telephone number (515)725-4900, in advance to arrange access or other needed services.

ITEM 13. Amend subrule 17.6(2), introductory paragraph, as follows:

17.6(2) Mailing list. Small businesses or organizations of small businesses may be registered on the authority's small business impact list by making a written application ~~addressed to the Executive Director, of the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16). The application for registration shall state:

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 14. Amend subrule 17.11(1) as follows:

17.11(1) General. When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the authority shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to the Executive Director, ~~of the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16). The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

ITEM 15. Amend subrule 18.5(2) as follows:

18.5(2) Other. If the petition does not relate to a pending contested case, the petition may be submitted to the attention of the executive director of the Iowa Finance Authority, ~~2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16).

ITEM 16. Amend **265—Chapter 18**, Exhibit A, paragraph “3,” as follows:

3. All petitions for waiver or variance must be submitted in writing to the attention of the executive director of the Iowa Finance Authority, ~~2015 Grand Avenue, Des Moines, Iowa 50312~~ 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.

ITEM 17. Amend subrule 22.14(1) as follows:

22.14(1) An applicant whose application has been timely filed may appeal the authority’s decision by filing a written notice of appeal within 14 days of the decision before the Iowa Finance Authority, ~~2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16). The notice of appeal must actually be received at ~~the above~~ that address within the time frame specified in order to be considered timely.

ITEM 18. Amend rule 265—30.2(16) as follows:

265—30.2(16) Forms. Information and forms necessary for compliance with provisions of the law are available upon request from the Iowa Finance Authority, ~~2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16). The telephone number of the authority is (515)725-4900. Information and forms are also available at www.iowafinanceauthority.gov.

ITEM 19. Amend subrule 31.1(1) as follows:

31.1(1) Location. The main office of the council is located at ~~2015 Grand Avenue, Des Moines, Iowa 50312~~, the offices of the Iowa Finance Authority, located at the address set forth in rule 265—1.3(16). Office hours for the council shall be 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Written requests may be submitted to the council at this address. Information about the council is available at this ~~Web-site~~ website address: <http://www.iowafinanceauthority.gov>. The council’s telephone numbers are: (515)725-4900 (general); 1-800-432-7230 (toll-free); 1-800-618-4718 (TTY); and (515)725-4901 (facsimile).

ITEM 20. Amend rule 265—37.2(16) as follows:

265—37.2(16) Forms. Information and forms necessary for compliance with provisions of the law are available upon request from the Iowa Finance Authority, ~~2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16). The telephone number of the authority is (515)725-4900. Information and forms are also available at www.iowafinanceauthority.gov.

ITEM 21. Amend subrule 44.1(3) as follows:

44.1(3) Location where public may submit requests for assistance or obtain information. Requests for assistance or information should be directed to the Iowa Finance Authority, ~~2015 Grand Avenue, Des Moines, Iowa 50312~~ at the address set forth in rule 265—1.3(16); telephone (515)725-4900. Requests may be made personally, by telephone, U.S. mail or any other medium available, between the hours of

IOWA FINANCE AUTHORITY[265](cont'd)

8 a.m. and 4:30 p.m., Monday through Friday. Special arrangements for accessibility to the authority at other times will be provided as needed.

[Filed 2/8/19, effective 4/3/19]

[Published 2/27/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/27/19.

ARC 4320C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to OSHA standard for crane operator training

The Labor Commissioner hereby amends Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

This amendment aligns Iowa's occupational safety and health standards for crane operator training in the construction industry with the corresponding federal standard. A duty for an employer to ensure that a crane operator is competent to operate the crane safely was set to expire, but these changes make that duty permanent and set forth minimum requirements for making the determination. The changes also remove a requirement that crane operators become certified based on the equipment "type and capacity." Instead, the certification shall be based on "type and capacity" or "type."

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 2, 2019, as **ARC 4198C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commissioner on February 6, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

LABOR SERVICES DIVISION[875](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 3, 2019.

The following rule-making action is adopted:

Amend rule **875—26.1(88)** by inserting the following at the end thereof:
83 Fed. Reg. 56244 (November 9, 2018)

[Filed 2/6/19, effective 4/3/19]

[Published 2/27/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/27/19.

ARC 4321C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to podiatry

The Board of Podiatry hereby amends Chapter 222, "Continuing Education for Podiatrists," Chapter 223, "Practice of Podiatry," and Chapter 224, "Discipline for Podiatrists, Orthotists, Prosthetists, and Pedorthists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 149 and sections 147.62 and 272C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 149 and sections 147.62 and 272C.2.

Purpose and Summary

2018 Iowa Acts, House File 2377, section 4, created new Iowa Code section 124.551A requiring prescribing practitioners to check the prescription monitoring program database prior to issuing an opioid prescription. 2018 Iowa Acts, House File 2377, section 21, created new Iowa Code section 147.162 requiring the Board to adopt rules that establish penalties for practitioners who overprescribe opioids. 2018 Iowa Acts, House File 2377, section 22, created new Iowa Code section 272C.2C requiring the Board to adopt rules requiring continuing education for opioid prescribers as a condition of license renewal. These amendments mandate that opioid prescribers check the prescription monitoring program database prior to prescribing opioids, require continuing education regarding opioid prescriptions, and allow for Board discipline for practitioners who overprescribe opioids.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 10, 2018, as **ARC 4051C**. A public hearing was held on October 30, 2018, at 8 a.m. in Fifth Floor Conference Room 526, Lucas 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 Board on November 20, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 3, 2019.

The following rule-making actions are adopted:

ITEM 1. Reletter paragraphs **222.3(2)“d”** to **“g”** as **222.3(2)“e”** to **“h.”**

ITEM 2. Adopt the following **new** paragraph **222.3(2)“d”**:

d. A licensee who has prescribed opioids to a patient during a renewal cycle shall have obtained a minimum of 1 hour of continuing education regarding the United States Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options.

ITEM 3. Adopt the following **new** rule 645—223.5(149):

645—223.5(149) Prescribing opioids. A podiatrist shall review a patient's information contained in the prescription monitoring program database for each opioid prescription prior to prescribing, unless the patient is receiving inpatient hospice care or long-term residential facility care.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 4. Adopt the following **new** subrule 224.2(32):
224.2(32) Prescribing opioids in dosage amounts exceeding what would be prescribed by a reasonably prudent prescribing practitioner engaged in the same practice.

[Filed 1/30/19, effective 4/3/19]

[Published 2/27/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/27/19.

ARC 4322C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to delivery sales of alternative nicotine products or vapor products

The Revenue Department hereby amends Chapter 82, "Cigarette Tax," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 453A.47C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 453A.47A as amended by 2017 Iowa Acts, Senate File 516, and sections 453A.47B and 453A.47C as enacted by 2017 Iowa Acts, Senate File 516.

Purpose and Summary

This rule seeks to implement division VII of 2017 Iowa Acts, Senate File 516. The legislation imposed sales and use tax on all delivery sales of alternative nicotine products or vapor products within Iowa and required sellers of those products into the state to obtain a permit from the Department.

Division VII of Senate File 516 provided detailed definitions and established requirements relevant to this rule. The bond required to obtain a delivery sale permit is comparable to the bond requirements for other permits imposed by rule 701—82.3(453A).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 2, 2019, as **ARC 4201C**. 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 February 6, 2019.

Fiscal Impact

This rule making has no fiscal impact beyond the legislation it implements. The Department estimated that division VII of 2017 Iowa Acts, Senate File 516, would generate an additional \$0.9 million for FY 2017, \$1.1 million for FY 2018, \$1.4 million in FY 2019, \$1.7 million in FY 2020, and \$2.1 million in FY 2021.

Jobs Impact

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

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Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 3, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend **701—Chapter 82**, title, as follows:

CIGARETTE TAX AND REGULATION OF DELIVERY SALES OF ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS

ITEM 2. Adopt the following **new** rule 701—82.12(453A):

701—82.12(453A) Delivery sales of alternative nicotine products or vapor products. Pursuant to Iowa Code section 453A.47C, Iowa sales and use taxes are imposed on all delivery sales of alternative nicotine products or vapor products within Iowa in accordance with Iowa Code chapter 423.

82.12(1) Delivery sale permit. Every person located within or outside of Iowa making a delivery sale of alternative nicotine products or vapor products within Iowa must obtain a delivery sale permit from the department. Iowa Code section 453A.47A shall govern the permit application and fee process.

a. Out-of-state retailers. An out-of-state retailer who has applied and otherwise qualifies for a delivery sale permit shall be issued the permit for the retailer's principal place of business.

b. Permitted sales. The delivery sale permit allows a retailer with such a permit to make delivery sales of alternative nicotine products or vapor products via the Internet, telephone, or mail order into Iowa.

82.12(2) Sales and use tax permit. A retailer holding a delivery sale permit must also have an Iowa sales or use tax permit. A retailer holding a delivery sale permit must collect and remit all Iowa sales and use tax due, including any applicable local option sales tax, on all sales in Iowa.

82.12(3) Bond required. A bond of \$1,000 is required to obtain a delivery sale permit.

82.12(4) Prohibited delivery sales. All delivery sales of cigarettes and tobacco products to consumers in Iowa are prohibited.

82.12(5) Penalties. Permit suspension and revocation and other penalties imposed in Iowa Code sections 453A.22 and 453A.50 shall apply to retailers holding a delivery sale permit.

This rule is intended to implement Iowa Code sections 453A.47A, 453A.47B, and 453A.47C.

[Filed 2/7/19, effective 4/3/19]

[Published 2/27/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/27/19.

ARC 4323C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to local option sales and services tax**

The Revenue Department hereby amends Chapter 107, “Local Option Sales and Service Tax,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 423B as amended by 2018 Iowa Acts, Senate File 2417.

Purpose and Summary

This rule making amends the Department’s chapter on local option sales and services tax. The rule making removes rules that repeat the language of the statute, updates calculations, and incorporates changes necessary as a result of 2018 Iowa Acts, Senate File 2417. The Department is also striking language from this chapter that has been moved to Chapter 223, which is amended in **ARC 4324C** (IAB 2/27/19).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 2, 2019, as **ARC 4202C**. A public hearing was held on January 23, 2019, at 9 a.m. in Room 430, Hoover State Office Building, Fourth Floor, 1305 East Walnut 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 Department on February 6, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

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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 3, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend **701—Chapter 107**, title, as follows:

LOCAL OPTION SALES AND SERVICE SERVICES TAX

ITEM 2. Amend rule 701—107.1(422B) as follows:

701—107.1(422B 423B) Definitions. ~~The following words and terms are used in the administration of the local option sales and service tax:~~

107.1(1) Incorporation of definitions. To the extent it is consistent with Iowa Code chapter 423B and this chapter, all other words and phrases used in this chapter shall mean the same as defined in Iowa Code chapter 423B, Iowa Code section 423.1, and rule 701—211.1(423).

107.1(2) Chapter-specific definitions. For purposes of this chapter, unless the context otherwise requires:

The word “city” “City” means a municipal corporation and includes towns in Iowa which were incorporated prior to July 1, 1975, but a city does not mean a county, township, school district, or any special purpose district or authority.

When the word “department” is used, it means the “Iowa department of revenue.”

“Local option tax” or “local option taxes” means the taxes imposed by Iowa Code chapter 423B.

“Most recent certified federal census” means the final count from the most recent decennial census conducted by the United States Department of Commerce, Bureau of the Census, as modified by subsequent certifications from the Bureau of the Census. If a subsequent certified census occurs which modifies the “most recent certified federal census” for a participating jurisdiction, then the formula set forth in this rule for computations for distribution of the tax shall reflect any population adjustments reported by the subsequent certified census.

The term “unincorporated area of the county” “Unincorporated area of the county” means all areas of a county which are outside the corporate limits of all cities which are located within the geographical area of the county.

When the meaning of the word “sale” cannot be determined by referring to the definition of that word set out in Iowa Code section 422.42(17), its meaning should be determined by studying Iowa Code chapter 554, Uniform Commercial Code, Article 2.

ITEM 3. Amend rule 701—107.2(422B) as follows:

701—107.2(422B 423B) Local option sales and service tax. Imposition of local option taxes and notification to the department. This rule describes notification and other requirements as related to the department. For information on the election forms and instructions, see 721—Chapter 21.

107.2(1) Imposition and jurisdiction. Notice to the department. Only a county may impose a tax upon the gross receipts of sales of tangible personal property sold within the county and upon the gross receipts from services rendered, furnished, or performed within the county. The local option sales and service tax may not be imposed by a city except under the circumstances described in rule 107.14(422B). However, the tax may be imposed by a county for transactions in a specified city. The tax may not be imposed on any transaction not subject to state sales tax. Effective May 1, 1999, transactions involving the use of natural gas, natural gas services, electricity or electric services are subject to a local excise tax that is to be imposed on the same basis as the state use tax, unless the sale or use involved in such transactions is subject to a franchise fee or user fee during the period the franchise fee or user fee is imposed. Except as otherwise provided in this chapter, all references to local option sales and service tax also include local excise tax, and all rules governing the administration and collection of local option

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sales and service tax are also applicable to local excise tax. With the exception of the natural gas and electric related transactions previously mentioned, there is no local option use tax. The local sales and service tax may be imposed at any rate of not more than 1 percent. See rule 701—14.2(422,423) for a tax schedule setting out the combined rate for a state sales tax of 5 percent and a local sales tax of 1 percent. Frequency of deposit and quarterly reports of local option tax with the department of revenue is governed by the retail sales tax provisions found in Iowa Code section 422.52. Local option tax collections shall not be included in the computation of the total tax to determine the frequency of filing under Iowa Code section 422.52.

The local option sales and service tax can be imposed upon the unincorporated area of any county only if a majority of those voting in the area favor its imposition. The tax can be imposed upon any incorporated area within a county only if a majority of those voting in that area favor its imposition. All cities within a county contiguous to each other must be treated as part of one incorporated area, and tax can be imposed in such an incorporated area only if the majority of persons voting in the total area covered by the contiguous cities favor imposition of the tax. For the purposes of this rule, the local option sales and service tax can only be imposed in those areas specified in the ordinance of a county board of supervisors which imposes the tax.

Within ten days of the election at which a majority of those voting in favor of on the question of imposition, repeal, or change in the rate of tax vote in favor, the county auditor must give notice of the election results to the director in the form of by sending a copy of the abstract of votes and a copy of the sample ballot from the election.

107.2(2) Procedures for implementing and repealing the tax. Avoiding a lapse in tax due to expiration of a former local option tax.

a. Implementing the tax. The ballot proposition imposing the tax shall specify the type and rate of the tax and other items set forth in Iowa Code section 422B.1. Effective April 1, 2000, the date of imposition of the tax must occur on either January 1 or July 1, but cannot be earlier than 90 days from the date of the election in which a majority of those voting on the tax favored its imposition. Within ten days of the favorable election, the county auditor must give written notice of the election by sending a copy of the abstract of ballot from the favorable election to the director of revenue. For the purposes of this rule, the “abstract of ballot” is defined as abstract of votes as provided in 721—21.800(4).

A jurisdiction that has a local option tax that is set to expire may vote to impose another local option tax. However, due to the required imposition dates previously set forth, there may be a lapse in the tax because of an expiration of the former local option tax and the required imposition dates for imposition of a local option tax. Effective July 1, 2001, a local option jurisdiction may avoid a lapse in local option tax. To avoid a lapse in the tax, a jurisdiction may place on the ballot that the new local option tax will continue without repeal of the prior tax. If the required vote is in favor of imposition of the local option tax, the continued local option tax can be imposed so there is no lapse in the tax.

b.—Repeal of the tax. A county that has imposed a local option tax may have the tax repealed. Repeal of the tax in an unincorporated area or an incorporated city area may occur either by the board of supervisors’ acting upon its own motion or by the board’s acting on a motion submitted by the governing body of an incorporated area asking for the repeal. The repeal is effective on the later of the date of the adoption of the motion of repeal or the earliest date set forth in Iowa Code section 422B.9(1).

Effective April 1, 2000, tax shall only be repealed on June 30, or December 31, but not sooner than 90 days following the favorable election if one is held. If the tax has been imposed prior to April 1, 2000, and at the time of election a date for the repeal was specified on the ballot, the tax may be repealed on that date despite the dates previously set forth.

This rule is intended to implement Iowa Code sections 422B.1 and 422B.8 and 422B.9 as amended by 2001 Iowa Acts, House File 715, section 14 section 423B.1.

ITEM 4. Rescind rule 701—107.3(422B) and adopt the following new rule in lieu thereof:

701—107.3(423B) Administration.

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107.3(1) Generally. The department is charged with the administration of the tax, once imposed, subject to the rules, regulations, and direction of the director. The department is required to administer the tax as nearly as possible in conjunction with the administration of the state sales tax.

107.3(2) Incorporation of 701—Chapter 11. Except as otherwise stated in this chapter, the requirements of 701—Chapter 11 shall apply to retailers required to collect local option taxes in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code section 423B.6.

ITEM 5. Rescind rule 701—107.4(422B) and adopt the following new rule in lieu thereof:

701—107.4(423B) Filing returns; payment of tax; penalty and interest.

107.4(1) Incorporation of 701—Chapter 12. Except as otherwise stated in this chapter, the requirements of 701—Chapter 12 shall apply to retailers required to collect local option tax in the same manner as those requirements apply to all sellers and retailers making sales subject to state sales tax.

107.4(2) Local tax collections not included to determine filing frequency. Local option tax collections shall not be included in computation of the total tax to determine frequency of filing under Iowa Code section 423.31.

This rule is intended to implement Iowa Code section 423B.6.

ITEM 6. Rescind rule 701—107.5(422B) and adopt the following new rule in lieu thereof:

701—107.5(423B) Permits. Except as otherwise stated in this chapter, the requirements of 701—Chapter 13 shall apply to retailers required to collect local option tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code section 423B.6.

ITEM 7. Rescind rule 701—107.6(422B) and adopt the following new rule in lieu thereof:

701—107.6(423B) Sales subject to local option sales and services tax. All sales subject to sales tax under Iowa Code chapter 423 are subject to local option sales and services tax. There is no local option use tax.

107.6(1) Sourcing. The general sourcing rules described in Iowa Code section 423.15 and 701—Chapter 223 are used to determine whether a sale is subject to local option taxes and, if so, in what jurisdiction. A local sales and services tax is not applicable to transactions sourced to a place of business, as defined in Iowa Code section 423.1, of a retailer if such place of business is located in part within a city or unincorporated area of the county where the tax is not imposed.

107.6(2) Sellers responsible for collecting local option sales and services tax. Sales sourced to Iowa and made by sellers subject to Iowa Code section 423.1(48) or 423.14A are subject to local option sales and services tax.

This rule is intended to implement Iowa Code section 423B.5(1).

ITEM 8. Rescind rules **701—107.7(422B)** and **701—107.8(423B)**.

ITEM 9. Renumber rules **701—107.9(423B,423E)** to **701—107.11(422B)** as **701—107.7(423B,423E)** to **701—107.9(422B)**.

ITEM 10. Amend renumbered rule 701—107.7(423B,423E) as follows:

701—107.7(423B,423E) Sales not subject to local option tax, including transactions subject to Iowa use tax. The local option sales and service services tax is imposed upon the same basis as the Iowa state sales and service services tax, with six the following exceptions:

1. The sales price from the sale of or service of providing motor fuel or special fuel as defined under Iowa Code chapter 452A is subject to local option tax. However, the sales price from the sale or service of these types of fuels is exempt from local option tax if all of the following criteria are met:

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- The motor or special fuel must be consumed by a motor vehicle for highway use, or used in watercraft or aircraft;

- Fuel tax must have been paid on the transaction; and
- A refund has not been or will not be allowed.

~~2.—For taxes imposed prior to July 1, 2005, the sales price from the rental of rooms, apartments, or other lodging which was taxed under Iowa Code chapter 422A during the period in which the hotel and motel tax was imposed under that chapter shall be exempt from local option sales tax. As of July 1, 2005, the sales price of lodging is no longer subject to the sales tax imposed by Iowa Code chapter 423; thus, the sales price of lodging is not subject to the local option sales tax. Also, as of July 1, 2005, Iowa Code chapter 422A is repealed. See 701—Chapter 241 for a description of the new state imposed tax on lodging; see 701—Chapters 103, 104, and 105 for a description of the new local option hotel and motel tax.~~

~~3. 2.~~ The sales price from the sale of natural gas or electricity in a city or county is exempt from tax if the sales price is subject to a franchise or user fee during the period the franchise or user fee is imposed.

~~4. 3.~~ A local taxing jurisdiction is prohibited from taxing the sales price from a pay television service consisting of a direct-to-home satellite service. Section 602 of the federal government's Telecommunications Act of 1996 defines a "direct-to-home satellite service" as "only programming transmitted or broadcast by satellite directly to the subscribers' premises or in the uplink process to the satellite." A "local taxing jurisdiction" is "any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local jurisdiction in the territorial jurisdiction of the United States, with the authority to impose a tax or fee, but does not include a state."

~~5. 4.~~ The sales price from sales of equipment by the Iowa state department of transportation is exempt from local option sales tax.

~~6.—Certain construction-related equipment and other items are exempt.~~

~~The general application of this exception is as follows: The sales price from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments that are customarily drawn or attached to self-propelled building equipment, motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts, and that are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures is exempt from local option sales tax. As of July 1, 2005, taxation of the above-mentioned machinery and equipment is removed from Iowa Code chapter 423 and thus is not subject to the local option sales tax. See 701—Chapter 241, division II, for an explanation of the new state excise tax imposed on sales of construction machinery and equipment.~~

~~The following definitions apply to this rule:~~

~~"Directly used" includes equipment used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures. To determine if equipment is "directly used," one must first ensure that the equipment is used during the specified activity and not before that process has begun or after it has ended. If the machinery or equipment is used in new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, to be "directly used," it must constitute an integral and essential part of such activity as distinguished from a use in such an activity that is incidental, merely convenient, or is remote. The fact that the machinery or equipment is essential or necessary to new construction, reconstruction, alterations, expansion, or remodeling of real property or structures does not mean that it is also "directly used" in such an activity. Machinery or equipment may be necessary to one of the previously mentioned activities, but so remote from it that it is not directly used in the activity.~~

~~In determining whether machinery or equipment is used directly, consideration should be given to the following factors:~~

~~1.—The physical proximity of the machinery or equipment to other machinery or equipment whose direct use is unarguable. The closer the machinery or equipment whose direct use is questionable is to the machinery or equipment whose direct use is not questionable, the more likely it is that the former is~~

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directly used in new construction, reconstruction, alterations, expansion, or remodeling of real property or structures.

2. —The proximity in time of the use of machinery or equipment whose direct use is questionable to the use of machinery whose direct use is not questionable. The closer in time the use, the more likely that the questionable machinery or equipment's use is direct rather than remote.

3. —The active causal relationship between the use of the machinery or equipment in new construction, reconstruction, alterations, expansion, or remodeling of real property or structures.

The fewer intervening causes between the use of the machinery or equipment and the production of the product, the more likely it is that the machinery or equipment is directly used in the activities at issue.

“*Equipment*” means tangible personal property (other than a machine) directly and primarily used in new construction, reconstruction, alterations, expansion, or remodeling of real property or structures. “*Equipment*” may be characterized as property which performs a specialized function, which, of itself, has no moving parts, or if it does possess moving parts, its source of power is external to it.

“*Primarily used*” includes machinery and equipment utilized in new construction, reconstruction, alterations, expansion, or remodeling of real property or structures. Machinery or equipment is “*primarily used*” in new construction, reconstruction, alterations, expansion, or remodeling of real property or structures if more than 50 percent of the total time the machinery or equipment is used in the activity at issue (new construction, reconstruction, alterations, expansion, or remodeling of real property or structures). If a unit of machinery or equipment is used more than 50 percent of the time for the activity at issue and the balance of time for other business purposes, the exemption applies. If a unit of machinery or equipment is used 50 percent or more of the time for business purposes and not being used in new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, the exemption does not apply.

“*Real property*” includes the earth, the ground, a building, structure and other tangible personal property incorporated into the ground or a building that becomes a part of the ground, structure or the building if removal of the property from the ground or building will substantially damage the property, ground, or building or substantially diminish the value of the property, ground, or building. The ground or the earth is not machinery or equipment. A building is not machinery or equipment. *Mid-American Growers, Inc. v. Dept. of Revenue*, 493 N.E.2d 1097 (Ill. App. Ct. 1986). Instead, a building or structure that is affixed to the ground is considered to be real property. Fence posts embedded in concrete and electrical wiring, light fixtures, fuse boxes, and switches are examples of property sold for incorporation into the ground or a building, respectively. A test which can be applied to differentiate between equipment and real property is the following: If property is sold to a contractor, and the retailer would be required to consider the property “*building material*” and charge the contractor sales tax upon the purchase of this building material, then sale of the property is not exempt from local option tax.

“*Replacement parts*” means those parts essential to any repair or reconstruction necessary to self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of such equipment or equipment's exempt use in new construction, reconstruction, alterations, expansion, or remodeling of real property or structures. “*Replacement parts*” does not include attachments and accessories not essential to the operation of the machinery or equipment itself (except when sold as part of the assembled unit) such as cigarette lighters, radios, canopies, air conditioning units, cabs, deluxe seats, and tools or utility boxes.

“*Self-propelled building equipment*” has the same meaning as that in 701—subrule 17.9(5), paragraph “*c*,” where the term is defined as an implement which is capable of movement from one place to another under its own power. “*Self-propelled building equipment*” includes, but is not limited to, skid-loaders, earthmovers and tractors.

5. Sales subject to Iowa use tax. Since the local option tax is imposed only on the same basis and not on any greater basis than the Iowa sales and service services tax, local option tax is not imposed on any transactions subject to Iowa use tax, including use tax the one-time registration fee applicable to vehicles subject to registration or subject only to the issuance of a certificate of title. Also, exemptions

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which are applicable only to Iowa use tax cannot be claimed to exempt any transaction subject to local option sales tax. However, if

6. Local excise on gas and electricity. If a transaction involves the use of natural gas, natural gas service, electricity, or electric service, then a local excise tax is imposed on the same basis as Iowa use tax under Iowa Code chapter 423. ~~Local~~ This local excise tax is to be collected and administered in the same manner as local option sales and service services tax. Except as otherwise provided in this chapter, all rules governing local option sales and service services tax also apply to local excise tax.

~~When tangible personal property is sold within a local option sales tax jurisdiction and the seller is obligated to transport it to a point outside Iowa or to transfer it to a common carrier or to the mails or parcel post for subsequent movement to a point outside Iowa, the sales price from the sale is exempt from local option sales tax provided the property is not returned to any point within Iowa except solely in the course of interstate commerce or transportation. (Iowa Code subsection 423.3(43)). Property sold in a local option sales tax jurisdiction for subsequent transport to a point outside the jurisdiction but otherwise within the borders of Iowa is not exempt from tax.~~

~~This rule is intended to implement 2005 Iowa Code Supplement sections section 423B.5 and 423E.3.~~

ITEM 11. Amend renumbered rule 701—107.8(422B) as follows:

701—107.8(422B 423B) Local option sales and service services tax payments to local governments. For periods after July 1, 1997, when a local sales and service tax is imposed, the director of revenue within 15 days of the beginning of each fiscal year shall send to each city or county where the local option tax is imposed, an estimate of the tax moneys each city or county will receive for the year and for each month of the year. For periods after July 1, 2002, the director of revenue by August 15 of each fiscal year shall send to each city or county where the local option tax is imposed an estimate of the tax moneys each city or county will receive for the year and for each month of the year. At the end of each month, the director may revise the estimates for the year and remaining months. The director shall remit 95 percent of the estimated monthly tax receipts for the city or county to the city or county on or before August 31 of the fiscal year and the last day of each month thereafter. The director shall remit a final payment of the remainder of tax money due to the city or county for the fiscal year before November 10 of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the first payment of the new fiscal year shall be adjusted to reflect any overpayment. An adjustment for an overpayment which resulted in a previous year will be reflected beginning with the November payment. The shares are to be remitted to the board of supervisors if the tax is imposed in the unincorporated areas of the county, and to each city where the tax is imposed.

~~Each county's account is to be proportionately distributed to participating governments 75 percent on the basis of the most recent certified federal census population, and 25 percent on the basis of the sum of property tax dollars levied by participating boards of supervisors or by cities for the three years from July 1, 1982, through June 30, 1985.~~

~~“The most recent certified federal census” is the final count from the most recent decennial census conducted by the United States Department of Commerce, Bureau of the Census, as modified by subsequent certifications from the United States Bureau of the Census. If a subsequent certified census occurs which modifies the “most recent certified federal census” for a participating jurisdiction, then the formula set forth in this rule for computations for distribution of the tax shall reflect any population adjustments reported by the subsequent certified census.~~

~~The “sum of property tax dollars levied” by boards of supervisors or city councils for the three years from July 1, 1982, through June 30, 1985, is the amount obtained by using data from county tax rate reports and city tax rate reports compiled by the office of management.~~

107.8(1) County-imposed local sales and services tax; division of funds from accounts. Division of the amount from each county's account to be distributed is done with these steps.

1. *a.* The total amount in the county's account to be distributed is first divided into two parts. One part is equal to 75 percent of the total amount to be distributed. The second part is the remainder to be distributed.

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2. b. The part comprised of 75 percent of the total receipts to be distributed is further divided into an amount for each participating city or unincorporated area. This division is based upon the most recent certified federal census population and any subsequent certified census. Population for each participating city and unincorporated area is determined separately and totaled. The population for each sales tax imposing city or unincorporated area is divided by the total population to produce a percentage for each city or the unincorporated area. The percentages are rounded to the nearest one-hundredth of a percent with the total of all percentages equal to 100 percent. Each government's percentage is multiplied by 75 percent of the sales tax receipts to be distributed. Distributions are to be rounded to the nearest cent.

There are two types of certified federal censuses. The first is the usual decennial census which is always conducted throughout the entire area of any county imposing a local option sales tax.

The second type of certified federal census is the "interim" or "subsequent" census which is conducted between decennial censuses. An interim or subsequent census is not necessarily conducted within an entire county but may be used to count increases or decreases in only one or some of the jurisdictions within that county, for instance, one particular municipality. If an interim census is conducted within only certain participating jurisdictions of a county where a local option sales tax is imposed, the changes in population which that census reflects must be included within both the numerator and the denominator of the fraction which is used to compute the participating jurisdiction's share of the revenue from the county's account which is based on county population. See 1996 O.A.G. 10-22-96 (Miller to Richards). See also Example 3 of this rule for a demonstration of how an interim census can affect a population distribution formula.

3. c. The remaining 25 percent of the amount to be distributed is further divided based upon property taxes levied. The sum of property tax dollars to be used is the amount levied for the three years from July 1, 1982, through June 30, 1985, as obtained by using data from county tax rate reports and city tax rate reports compiled by the department of management. Property taxes levied by participating cities or the board of supervisors, if the local sales tax is imposed in unincorporated areas, are to be determined separately then totaled. The property tax amount for each sales tax imposing city and the board of supervisors, if the sales tax is imposed in unincorporated areas, is divided by the totaled property tax to produce a percentage. The percentages are rounded to the nearest one-hundredth of a percent with the total of all percentages equal to 100 percent. Each percentage is multiplied by 25 percent of the sales tax receipts to be distributed. Distributions are to be rounded to the nearest cent.

4. d. For each participating city, or the board of supervisors if unincorporated areas of the county participate, the amount determined in "3" paragraph 107.8(1) "c" is added to the amount found in "2" paragraph 107.8(1) "b." This amount is then to be remitted to the appropriate local government.

In order to illustrate the division of local option sales and ~~service~~ services tax receipts, the following examples are provided. The numbers are shown in an attempt to reflect reality but are hypothetical.

EXAMPLE 1. If a local option sales tax is approved for all of Pottawattamie County, the distribution of \$100,000 in countywide receipts would be made in this manner:

Step 1:

Distribution Basis	Amount
Population	\$ 75,000.00
Property Taxes Levied	25,000.00
Total	\$100,000.00

Step 2:

REVENUE DEPARTMENT[701](cont'd)

Jurisdiction	Certified Population		Receipts to be
	Number	Percentage	Distributed
Avoca	1,650	1.91%	\$ 1,432.50
Carson	716	0.83%	622.50
Carter Lake	3,438	3.98%	2,985.00
Council Bluffs	56,449	65.30%	48,975.00
Crescent	547	0.63%	472.50
Hancock	254	0.29%	217.50
Macedonia	279	0.32%	240.00
McClelland	177	0.20%	150.00
Minden	419	0.49%	367.50
Neola	839	0.97%	727.50
Oakland	1,552	1.80%	1,350.00
Treynor	981	1.13%	847.50
Underwood	448	0.52%	390.00
Walnut	897	1.04%	780.00
Unincorporated	<u>17,796</u>	<u>20.59%</u>	<u>15,442.50</u>
Total	<u>86,442</u>	<u>100.00%</u>	<u>\$75,000.00</u>

NOTE: The portion of the city of Shelby in Pottawattamie County is excluded.
Step 3:

Jurisdiction	Three-Year Total Taxes Levied		Receipts to be
	Amount	Percentage	Distributed
Avoca	\$ 454,556	0.82%	\$ 205.00
Carson	202,882	0.37%	92.50
Carter Lake	946,026	1.71%	427.50
Council Bluffs	30,290,732	54.81%	13,702.50
Crescent	7,732	0.01%	2.50
Hancock	56,705	0.10%	25.00
Macedonia	64,504	0.12%	30.00
McClelland	24,300	0.04%	10.00
Minden	155,112	0.28%	70.00
Neola	206,560	0.38%	95.00
Oakland	319,153	0.58%	145.00
Treynor	346,849	0.63%	157.50
Underwood	139,571	0.25%	62.50
Walnut	264,145	0.48%	120.00
Unincorporated	<u>21,782,457</u>	<u>39.42%</u>	<u>9,855.00</u>
Total	<u>\$55,262,284</u>	<u>100.00%</u>	<u>\$25,000.00</u>

Step 4:

REVENUE DEPARTMENT[701](cont'd)

Jurisdiction	Amount to be Distributed		Total Distribution
	By Population	By Taxes	
Avoca	\$ 1,432.50	\$ 205.00	\$ 1,637.50
Carson	622.50	92.50	715.00
Carter Lake	2,985.00	427.50	3,412.50
Council Bluffs	48,975.00	13,702.50	62,677.50
Crescent	472.50	2.50	475.00
Hancock	217.50	25.00	242.50
Macedonia	240.00	30.00	270.00
McClelland	150.00	10.00	160.00
Minden	367.50	70.00	437.50
Neola	727.50	95.00	822.50
Oakland	1,350.00	145.00	1,495.00
Treynor	847.50	157.50	1,005.00
Underwood	390.00	62.50	452.50
Walnut	780.00	120.00	900.00
Unincorporated	<u>15,442.50</u>	<u>9,855.00</u>	<u>25,297.50</u>
Total	<u>\$75,000.00</u>	<u>\$25,000.00</u>	<u>\$100,000.00</u>

EXAMPLE 2. If a local option sales tax is approved for Avoca, Oakland and Treynor in Pottawattamie County and \$10,000 is to be distributed, the distribution would be made in this manner:

Step 1:

Distribution Basis	Amount
Population	\$ 7,500.00
Property Taxes Levied	<u>2,500.00</u>
Total	<u>\$10,000.00</u>

Step 2:

Jurisdiction	Certified Population		Receipts to be Distributed
	Number	Percentage	
Avoca	1,650	39.45%	\$2,958.75
Oakland	1,552	37.10%	2,782.50
Treynor	<u>981</u>	<u>23.45%</u>	<u>1,758.75</u>
Total	<u>4,183</u>	<u>100.00%</u>	<u>\$7,500.00</u>

Step 3:

Jurisdiction	Three-Year Total Taxes Levied		Receipts to be Distributed
	Amount	Percentage	
Avoca	\$ 454,556	40.56%	\$1,014.00
Oakland	319,153	28.48%	712.00
Treynor	<u>346,849</u>	<u>30.96%</u>	<u>774.50</u>
Total	<u>\$1,120,558</u>	<u>100.00%</u>	<u>\$2,500.00</u>

Step 4:

REVENUE DEPARTMENT[701](cont'd)

Jurisdiction	Amount to be Distributed		Total Distribution
	By Population	By Taxes	
Avoca	\$2,958.75	\$1,014.00	\$ 3,972.75
Oakland	2,782.50	712.00	3,494.50
Treynor	<u>1,758.75</u>	<u>774.00</u>	<u>2,532.75</u>
Total	<u>\$7,500.00</u>	<u>\$2,500.00</u>	<u>\$10,000.00</u>

EXAMPLE 3. For the purposes of understanding this example, assume that the numbers for “certified population” from Step 2 of Example 2 immediately above are derived from the 1990 decennial census. Assume further that in 1993 an interim census is conducted by the Bureau of the Census in Avoca and Oakland only, and nowhere else in Pottawattamie County. As a result of that interim census, the Bureau of the Census certifies the population of Avoca to be 1,752 and the population of Oakland to be 1,493. The towns’ percentages of receipts to be distributed are recomputed in the following manner:

$$\text{Avoca's Percentage Equals } \frac{1752}{1752 + 1493 + 981} = 41.45\%$$

$$\text{Oakland's Percentage Equals } \frac{1493}{1493 + 1752 + 981} = 35.32\%$$

Amounts in Step 2 are then revised as follows:

Jurisdiction	Certified Population		Receipts to be Distributed
	Number	Percentage	
Avoca	1,752	41.46%	\$3,109.50
Oakland	1,493	35.33%	2,649.75
Treynor	<u>981</u>	<u>23.21%</u>	<u>1,740.75</u>
Total	<u>4,226</u>	<u>100.00%</u>	<u>\$7,500.00</u>

The “amount to be distributed by population” found in Step 4 of Example 2 would then be recomputed based on the new figures.

107.8(2) City-imposed local option sales and services tax. For information on the distribution of city-imposed local sales and services tax, see Iowa Code section 423B.7(1).

~~Rule 107.10(422B)~~ This rule is intended to implement Iowa Code section 422B.10 as amended by 2002 Iowa Acts, House File 2622, section 12 423B.7.

ITEM 12. Amend renumbered rule 701—107.9(422B) as follows:

701—107.9(422B 423B) Procedure if county of receipt’s origins Allocation procedure when sourcing of local option sales tax remitted to the department is unknown. If the director is unable to determine from which county gross receipts were local option sales tax was collected, those receipts that local option sales tax shall be allocated among the various counties in which local option sales and service services tax is imposed according to the following procedure:

1. The calculations performed under this procedure shall be performed at least quarterly, but in no event less often than the treasurer of the state is obligated to distribute shares of each county’s account in the local sales and service services tax fund.

2. The total amount of receipts for which the director is unable to determine a county of collection which have accumulated since the last allocation of these receipts shall be added together to form one lump sum.

3. The amount of population (according to the most recent certified federal census) within the areas of each individual county in which a local option sales and service services tax is imposed shall be determined.

REVENUE DEPARTMENT[701](cont'd)

4. The amount of population so determined in “3” above for each county shall be added to the amount for every other county in Iowa in which the local option sales and ~~service~~ services tax is imposed, until the figure for the amount of population of all areas of Iowa in which the local option sales and ~~service~~ services tax is imposed is determined.

5. The sum determined to exist in “2” above shall be multiplied by a fraction, the numerator of which is the population of any one county determined in “3” above and the denominator of which is the number calculated by the method described in “4.” The procedure described herein in “5” shall be used until the amount of tax due to every county imposing local option sales and ~~service~~ services tax is calculated. After calculations are complete, the treasurer of the state must distribute shares of each county’s account in the local sales and ~~service~~ services tax fund. See rule ~~107.10(422B)~~ 701—107.1(423B) for characterization of the term “most recent certified federal census” and rule ~~701—107.8(423B)~~ 701—107.8(423B) for methods of rounding off percentages and monetary sums.

This rule is intended to implement Iowa Code ~~subsection 422B.10(1)~~ section 423B.7(1).

ITEM 13. Adopt the following new rule 701—107.11(423B):

701—107.11(423B) Motor vehicle, recreational vehicle, and recreational boat rental subject to local option sales and services tax. For information on when motor vehicles, recreational vehicles, and recreational boat rentals are subject to local option sales and services tax, see rule 701—26.68(422).

This rule is intended to implement Iowa Code section 423B.3.

ITEM 14. Amend rule 701—107.12(422B) as follows:

701—107.12(422B 423B) Computation of local option tax due from mixed sales on excursion boats. Particular difficulties exist in calculating the amount of local option sales tax due for sales occurring on an excursion gambling boat sailing into and out of jurisdictions imposing the local option sales tax. Ordinarily, whether local option sales tax is payable if ~~tangible personal property is delivered under a contract for sale or if taxable services are rendered, furnished, or performed within that portion of a county where a tax is imposed~~ to a particular jurisdiction is based on destination sourcing. See Iowa Code section 423.15 and 701—Chapter 223. However, it can be quite difficult to determine if a moving excursion gambling boat is at any one point in time within or outside of a jurisdiction imposing the local option tax. Thus, it is difficult to determine if a delivery of property or provision of a service on the boat has occurred inside or outside of a local option tax jurisdiction. Because of this, the department will accept the use of any formula which rationally apportions the progress of an excursion gambling boat among jurisdictions which impose a local option tax and those that do not.

Below are four examples setting out two possible formulas for apportionment. Examples A and C utilize a “distance” formula for apportionment. Examples B and D utilize a “time” formula for apportionment. In Examples A and B, state sales tax is included in the sale sales price of the taxable items. In Examples C and D, state sales tax is added to taxable gross receipts. In all examples, local option sales tax is included in the sales price; also, for every example, it is assumed that the local option sales tax rate is 1 percent in every jurisdiction where it is imposed.

EXAMPLE A. The excursion gambling boat “Auric” is based in Clinton. Assume that during a particular cruise there occurs \$10,000 worth of vending machine and nongambling game sales. State sales tax and local option tax must be included in the amounts charged for these vending machine and nongambling game sales. Assume that the Auric, on an ordinary cruise, travels round trip for 50 miles on the Mississippi River, 25 of those miles through waters which are part of a local option sales tax jurisdiction and 25 of those miles which are not. The amount of state sales tax due and the amount of local option sales tax (LOST) due using a “distance” apportionment formula are determined as follows:

Computation of state sales tax due

1. $\$10,000 \div 1.04 = \$9,615.38$

2. $\$10,000 - \$9,615.38 = \$384.62 = \text{amount of state sales tax due}$

Computation of local option tax due

1. $\$9,615.38 \div 1.01 = \$9,520.18$

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$$2. \quad \cancel{\$9,615.38} - \cancel{\$9,520.18} = \cancel{\$95.20}$$

$$3. \quad \cancel{\$95.20} \times \frac{1}{2} = \cancel{\$47.60} = \text{amount of local option sales tax due}$$

$$1. \quad (25 \div 50) \times 0.01 = 0.005$$

(miles in LOST jurisdiction \div total miles) \times LOST rate = effective LOST rate

$$2. \quad 1 + 0.06 + 0.005 = 1.065$$

$$1 + \text{state sales tax rate} + \text{effective LOST rate} = (1 + \text{effective total tax rate})$$

$$3. \quad \$10,000.00 \div 1.065 = \$9,389.67$$

Gross receipts \div (1 + effective total tax rate) = total sales

$$4. \quad \$9,389.67 \times 0.06 = \$563.38$$

Total sales \times state tax rate = state tax amount

$$5. \quad \$9,389.67 \times 0.005 = \$46.95$$

Total sales \times effective LOST rate = LOST amount

$$6. \quad \$563.38 + \$46.95 = \$610.33$$

State tax amount + LOST amount = total tax amount

EXAMPLE B. The ~~gambling~~ excursion ~~gambling~~ boat "Blue Diamond" is based in Davenport. Assume that, as in Example A, during a particular cruise there occurs \$10,000 worth of vending machine and nongambling game sales. Again, state sales tax and local option tax are included in the amounts charged for these vending machine and nongambling game sales. The Blue Diamond spends three hours on the water during an ordinary cruise. One hour is spent sailing in waters where no local option sales tax is imposed; two hours are spent in waters where the local option tax is imposed. In this case, the Blue Diamond's operator can use a formula based on time spent sailing inside and outside of a local option tax-imposing jurisdiction rather than distance traveled within and without such a jurisdiction as in Example A, so long as there is a reasonable amount of evidence to indicate that the formula reflects with some accuracy the ratio of nontaxable and taxable sales. ~~In this case, all calculations are the same as those performed in Example A, except that the last~~ The calculation is performed as follows:

$$\cancel{\$95.20} \times \frac{2}{3} = \cancel{\$63.40} = \text{amount of local option sales tax due}$$

$$1. \quad (2 \div 3) \times 0.01 = 0.00666$$

(hours in LOST jurisdiction \div total hours) \times LOST rate = effective LOST rate

$$2. \quad 1 + 0.06 + 0.00666 = 1.06666$$

$$1 + \text{state sales tax rate} + \text{effective LOST rate} = (1 + \text{effective total tax rate})$$

$$3. \quad \$10,000.00 \div 1.06666 = \$9,375.06$$

Gross receipts \div (1 + effective total tax rate) = total sales

$$4. \quad \$9,375.06 \times 0.06 = \$562.50$$

Total sales \times state tax rate = state tax amount

$$5. \quad \$9,375.06 \times 0.00666 = \$62.44$$

Total sales \times effective LOST rate = LOST amount

$$6. \quad \$562.50 + \$62.44 = \$624.94$$

State tax due + LOST due = total tax amount

EXAMPLE C. The excursion gambling boat "Golconda" is based in Dubuque, Iowa. On an ordinary cruise, it will travel a round trip of 50 miles on the Mississippi River. During 25 of those 50 miles the Golconda is passing through waters which are part of a local option sales tax jurisdiction. Assume that on one particular cruise, \$100,000 in taxable gross receipts is collected on the boat. Local option sales tax is included in the \$100,000 amount but not state sales tax. Thus, the total amount collected is ~~\$104,000~~ \$106,000; \$100,000 in gross receipts, ~~\$4,000~~ \$6,000 in state sales tax. Local option tax is calculated as follows: ~~Divide \$100,000 by 1.01. This result is \$99,009.90. Subtract this from \$100,000 leaving \$990.10. \$990.10 is the amount of local option tax which would be due if all sales during the cruise had occurred in a jurisdiction imposing a local option tax. Since only half the distance traveled was in a jurisdiction imposing the tax, \$990.10 is multiplied by .5 to discover the amount of local option tax due (\$495.05).~~

$$1. \quad (25 \div 50) \times 0.01 = 0.005$$

(miles in LOST jurisdiction \div total miles) \times LOST rate = effective LOST rate

$$2. \quad 1 + 0.005 = 1.005$$

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1 + effective LOST rate

$$3. \quad \$100,000.00 \div 1.005 = \$99,502.49$$

Gross receipts including LOST \div (1+ effective LOST rate) = total sales

$$4. \quad \$99,502.49 \times 0.06 = \$5,970.15$$

Total sales \times state tax rate = state tax amount

$$5. \quad \$100,000.00 - 99,502.49 = \$497.51$$

Gross receipts including LOST - total sales = LOST amount

$$6. \quad \$5,970.15 + \$497.51 = \$6,467.66$$

State tax due + LOST due = total tax amount

$$7. \quad \$99,502.49 + \$497.51 + \$5,970.15 = \$105,970.15$$

Total sales + LOST amount + state tax amount = total amount collected by vendor

EXAMPLE D. The ~~gambling~~ excursion gambling boat "Black Jack" is based in Davenport. Assume that during a particular cruise there is \$150,000 in taxable gross receipts collected on the Black Jack. The full amount collected is ~~\$156,000~~ \$159,000; ~~\$6,000~~ \$9,000 in state sales tax and \$150,000 in gross receipts. The Black Jack spends three hours on the water during an ordinary cruise. One hour is spent sailing in waters where no local option sales tax is imposed; two hours are spent in waters where the local option tax is imposed. In this case, as in Example B, the Black Jack's operator can use a formula based on time spent sailing inside and outside of a local option tax-imposing jurisdiction rather than distance traveled within and without such a jurisdiction so long as there is a reasonable amount of evidence to indicate that the formula reflects with some accuracy the ratio of nontaxable and taxable sales. In this example tax is computed as follows:

$$1. \quad \$150,000 \div 1.01 = \$148,514.85$$

$$2. \quad \$150,000 - \$148,514.85 = \$1,485.15$$

$$3. \quad \$1,485.15 \times 2/3 = \$989.11 = \text{amount of tax due}$$

$$1. \quad (2 \div 3) \times 0.01 = 0.00666 \text{ effective LOST rate}$$

(hours in LOST jurisdiction \div total hours) \times LOST rate = effective LOST rate

$$2. \quad 1 + 0.00666 = 1.00666$$

1 + effective LOST rate

$$3. \quad \$150,000.00 \div 1.00666 = \$149,007.61$$

Gross receipts including LOST but not state tax \div (1 + effective LOST rate) = total sales

$$4. \quad \$149,007.61 \times 0.06 = \$8,940.46$$

Total sales \times state tax rate = state tax amount

$$5. \quad \$150,000.00 - 149,007.61 = \$992.39$$

Gross receipts including LOST but not state tax - total sales = LOST amount

$$6. \quad \$8,940.46 + \$992.39 = \$9,932.85$$

State tax amount + LOST amount = total tax amount

$$7. \quad \$149,007.61 + \$992.39 + \$8,940.46 = \$158,940.46$$

Total sales + LOST amount + state tax amount = total amount collected by vendor

Upon beginning operation, a licensee may choose to employ either the "distance" method of apportionment set out in Examples A and C or the "time" method set out in B and D above without informing the department in advance of filing a sales tax return of its the licensee's choice. A licensee cannot use both methods of apportionment. If a licensee commencing operation wishes to use another method of apportionment, the licensee must petition the department for permission to use this alternative method, and present whatever evidence the department shall rationally require that the alternative method better reflects the ratio of taxable to nontaxable sales before using the alternative method. Any licensee wishing to change from any existing method of apportionment to another method must also petition the department and receive permission to change its method of apportionment.

This rule is intended to implement Iowa Code sections 99F.10(6) and ~~422B.8~~ 423B.5.

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- ITEM 15. Rescind rules **701—107.13(421,422B)** and **701—107.14(422B)**.
 ITEM 16. Renumber rule **701—107.15(422B)** as **701—107.10(422B)**.
 ITEM 17. Amend renumbered rule 701—107.10(422B) as follows:

701—107.10(422B 423B) Application of payments. Since a combined state sales and local option return is utilized by the department, all payments received will be applied to satisfy state sales tax and local option sales and ~~service~~ services tax, which include tax, penalty and interest. Application of payments received with the tax return and any subsequent payments received will be applied based on a ratio formula, unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2)“d.” The ratio for applying all payments received with the return and all subsequent payments for the given tax period will be based upon the calculated total of state sales and local option sales and ~~service~~ services tax due for the given tax period in relation to combined total payment of sales and local option sales and ~~service~~ services tax actually received for that tax period.

This rule is intended to implement Iowa Code ~~Supplement~~ section ~~422B.10~~ 423B.7.

- ITEM 18. Rescind rules **701—107.16(422B)** and **701—107.17(422B,422E)**.

[Filed 2/7/19, effective 4/3/19]

[Published 2/27/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/27/19.

ARC 4324C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to sourcing of taxable services, tangible personal property, and specified digital products

The Revenue Department hereby amends Chapter 223, “Sourcing of Taxable Services,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 423.15 as amended by 2018 Iowa Acts, Senate File 2417.

Purpose and Summary

This rule making amends the Department’s chapter on the sourcing of taxable services to remove language that is outdated, unnecessary, or duplicative of Iowa Code provisions. This rule making incorporates changes to the sourcing of tangible personal property and specified digital products pursuant to changes to the Iowa Code made by 2018 Iowa Acts, Senate File 2417. This rule making also adopts rules relating to sourcing that are rescinded from Chapter 107, Local Option Sales and Services Tax, in **ARC 4323C** (IAB 2/27/19).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 2, 2019, as **ARC 4200C**. A public hearing was held on January 23, 2019, at 10 a.m. in Room 430, Hoover State Office Building, Fourth Floor, 1305 East Walnut Street, Des Moines, Iowa. No one

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attended the public hearing. No public comments were received. The only changes from the Notice that have been made are minor grammatical edits. No substantive changes have been made.

Adoption of Rule Making

This rule making was adopted by the Department on February 6, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 3, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend **701—Chapter 223**, title, as follows:

SOURCING OF TAXABLE SERVICES, TANGIBLE PERSONAL PROPERTY, AND SPECIFIED DIGITAL PRODUCTS

ITEM 2. Amend rule 701—223.2(423), introductory paragraph, as follows:

701—223.2(423) General sourcing rules for taxable services. Except as otherwise provided in the agreement, retailers providing taxable services in Iowa shall source the sales of those services ~~under~~ using the general destination sourcing regime requirements described in Iowa Code section 423.15. In determining whether to apply the provisions of Iowa Code section 423.15 to the sale of a taxable service, it is necessary to determine the location where the service is received, first used, or could potentially be first used, by the purchaser or the purchaser's donee. With respect to taxable services performed on tangible personal property, the location where the retailer performs the taxable service does not determine the location where the purchaser receives the service. This rule and subsequent rules in Chapter 223 clarify the application of the definition of "receive" or "receipt" to various categories of services to assist in applying the sourcing provisions of Iowa Code section 423.15 to sales of services. The provisions of these rules do not affect the obligation of a purchaser or lessee to remit additional tax, if any, to another taxing jurisdiction based on the use of the service at another location.

ITEM 3. Amend subrule 223.3(2) as follows:

223.3(2) Sourcing of taxable services performed on tangible personal property as applied to local option sales and ~~service~~ services tax. A local option sales and ~~service~~ services tax shall be imposed on the same basis as the state sales and ~~service~~ services tax. With respect to sourcing of taxable services

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performed on tangible personal property, the local option sales and ~~service~~ services tax sourcing rules shall be the same as the general destination regime sourcing requirements described in Iowa Code section 423.15 and as set forth in rules 701—223.1(423) and 701—223.2(423) and subrule 223.3(1). However, the location of the taxable service performed on tangible personal property shall be sourced to the taxing jurisdiction, rather than to the state, where the customer regains possession or can potentially make first use of the tangible personal property on which the seller performed the service. Iowa does not impose a local option use tax.

ITEM 4. Adopt the following new rule 701—223.5(423):

701—223.5(423) Sourcing of tickets or admissions to places of amusement, fairs, and athletic events. Sales of tickets or admissions to places of amusement, fairs, and athletic events are sourced in the same manner as services, using the destination sourcing requirements described in Iowa Code section 423.15 and as set forth in rule 701—223.2(423). Generally, the sale of a service is sourced to the location where the purchaser makes first use of the service. In the case of an event that the purchaser attends at a physical location, first use would occur at the location of the event.

EXAMPLE: X makes retail sales of tickets to music concerts in Iowa. X is a retailer maintaining a place of business in this state under Iowa Code section 423.1(48) and therefore is required to collect Iowa sales tax and local option sales tax on retail sales of these tickets. See Iowa Code section 423.2(3). Y is a resident of Marshalltown, Iowa. Y purchases two tickets to attend a concert in Ames, Iowa. The sale is sourced to Ames, the location of the event. The result is the same regardless of how or where Y's tickets are delivered. X must charge Iowa sales tax and any local option sales tax that applies to sales sourced to Ames, Iowa.

223.5(1) Sales of admissions to virtual events. First use of a ticket of admission to a virtual event occurs at the location where the attendee first participates in or accesses the event, if known to the seller. If this location is unknown, the sale is sourced pursuant to Iowa Code section 423.15(1).

EXAMPLE: X is hosting a virtual video game tournament. X is a retailer maintaining a place of business in this state under Iowa Code section 423.1(48). Y purchases admission to participate in the virtual video game tournament from a residence in Council Bluffs, Iowa. Y's access to the tournament begins immediately upon purchase, and Y's location is known to X. Therefore, X must source the admission to Council Bluffs, Iowa. X must charge Iowa sales tax and any local option sales tax that applies to sales sourced to Council Bluffs, Iowa.

223.5(2) Sales of admissions that can be used at multiple locations. Admissions that may be used at multiple locations should be sourced to the location where the admission is purchased if the purchaser picks it up in person and it can be used at that location. If the service cannot be used at that location or the sale is made online, the sale should be sourced using the provisions of Iowa Code section 423.15 and these rules that apply when the location of first use is unknown.

EXAMPLE 1: X is a movie theater located in West Des Moines, Iowa. X sells movie passes that can be used at its location and other locations across Iowa. Y purchases a movie pass at X's location in West Des Moines. Y's purchase is sourced to West Des Moines. X must collect Iowa sales tax and any local option sales tax that applies to sales sourced to West Des Moines, Iowa.

EXAMPLE 2: X is a health club with locations across Iowa. X has a website where memberships can be purchased. Memberships can be used at any of X's locations. Y purchases a membership through X's website. Y is required to provide an address when the membership purchase information is filled out. Y provides an address in Clive, Iowa. Therefore the sale is sourced to Clive. See Iowa Code section 423.15(1) "c." X must therefore collect Iowa sales tax and any local option sales tax imposed in the city of Clive.

ITEM 5. Adopt the following new rule 701—223.6(423):

701—223.6(423) Sourcing rules for tangible personal property and specified digital products. All sales of tangible personal property and specified digital products by sellers obligated to collect sales and use tax, except those enumerated in Iowa Code section 423.16, shall be sourced using the destination

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sourcing requirements described in Iowa Code section 423.15. Products received by a purchaser at a seller's business location shall be sourced to that business location. When the retailer has the address to which the retailer or a shipping company will deliver a product to the purchaser, Iowa Code section 423.15(1) "b" applies and the sale is sourced to the delivery address. The sale of a product delivered to a shipping company is not sourced to the location of the shipping company. The terms of a sale as F.O.B. (origin) are irrelevant for purposes of sourcing a sale. See Iowa Code section 423.1(43) "b" and *In the Matter of Clipper Windpower, LLC*, Iowa Dep't of Revenue Declaratory Order No. 2016-300-2-0058 (Sept. 8, 2017).

223.6(1) *General examples of sourcing of tangible personal property.* The following examples illustrate the sourcing principles of Iowa Code section 423.15(1) as applied to sales, but not leases or rentals, of tangible personal property.

EXAMPLE 1: Item received at retail store of the seller. X purchases a product at a retail store in Waterloo, Iowa. X takes the product home from the retail store that day. The sale is sourced to the retail store in Waterloo, Iowa, because that is the business location where X receives the product. See Iowa Code section 423.15(1) "a." The retailer must therefore collect state sales tax and any local option sales tax imposed in the city of Waterloo.

EXAMPLE 2: Item received at warehouse of the seller. X purchases a product at a retail store in Waterloo, Iowa, but X has to pick up the product at a warehouse in Cedar Falls, Iowa. The sale is sourced to the warehouse in Cedar Falls because that is the business location where X receives the product. See Iowa Code section 423.15(1) "a." The retailer must therefore collect state sales tax and any local option sales tax imposed in the city of Cedar Falls.

EXAMPLE 3: Item received at alternate location. X purchases a product at a retail store in Waterloo, Iowa. While purchasing the product, X provides the retail store with X's home address as the location where X would like to have the product delivered. The retail store's delivery truck delivers the product to X's home in Waverly, Iowa. The sale is sourced to X's home in Waverly, Iowa, because that is the location where X receives the product and the location is known to the seller. See Iowa Code section 423.15(1) "b." The retailer must therefore collect state sales tax and any local option sales tax imposed in the city of Waverly. The outcome in this example is the same regardless of whether the retail store delivered the product with its own truck or by common carrier.

EXAMPLE 4: Sale by Iowa seller, product received by buyer in Iowa, but product delivered from outside of Iowa. X lives in Maxwell, Iowa. X purchases a product online from an Iowa seller with a retail location in Des Moines, Iowa. While purchasing the product, X provides the retail store with X's home address as the location where X would like to have the product delivered. The seller sends the product to X via a common carrier from its shipping facility in Lincoln, Nebraska, and X receives the product at X's home in Maxwell. The sale is sourced to Maxwell because the product is received at that location and that location is known to the seller. See Iowa Code section 423.15(1) "b." The outcome in this example is the same regardless of the fact that the product was delivered by a third party and regardless of the fact that the product was delivered from out of state. See Iowa Code section 423.15(1) "b." The retailer must therefore collect state sales tax and any local option sales tax imposed in the city of Maxwell.

EXAMPLE 5: Sale by remote seller, product delivered into Iowa. X lives in Maxwell, Iowa. X purchases a product online from a remote seller (a seller who has no physical presence in Iowa) located in Kansas City, Missouri, who is required to collect Iowa sales and local option taxes on Iowa sales pursuant to Iowa Code section 423.14A(3). While purchasing the product, X inputs X's home address as the delivery address. The product is shipped via common carrier. The sale is sourced to Maxwell, Iowa, because the product is received at that location and that location is known to the seller. See Iowa Code section 423.15(1) "b." It is irrelevant that the product was delivered by a third-party common carrier. See Iowa Code section 423.15(1) "b." The retailer must therefore collect state sales tax and any local option sales tax imposed in the city of Maxwell.

EXAMPLE 6: Location of receipt by a purchaser's donee. X lives in Omaha, Nebraska. X purchases a birthday gift for Y, who lives in Davenport, Iowa. X purchases the gift from a remote seller (a seller who has no physical presence in Iowa) located in Chicago, Illinois, who is required to collect Iowa sales and local option taxes on Iowa sales pursuant to Iowa Code section 423.14A(3). While purchasing the

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gift, X inputs Y's Davenport, Iowa, address as the delivery address. The sale is sourced to Davenport, Iowa. Y is the purchaser's donee. The gift is received by Y in Davenport, Iowa, and that location is known to the seller. See Iowa Code section 423.15(1) "b." The retailer must therefore collect state sales tax and any local option sales tax imposed in the city of Davenport.

EXAMPLE 7: Location of receipt unknown to the seller, but purchaser's address available from seller's business records. X purchases a product at a retail store in Waterloo, Iowa. X provides a billing address located in Fort Dodge, Iowa, with X's payment information. X indicates to the retail store that X will arrange for a third-party shipping company to pick up the product. X does not provide the retailer a shipping address. Even though the retailer does not know the delivery address, the retailer's business records indicate that the purchaser's address is in Fort Dodge. Therefore, the sale is sourced to Fort Dodge. See Iowa Code section 423.15(1) "c." The retailer must therefore collect state sales tax and any local option sales tax imposed in the city of Fort Dodge.

EXAMPLE 8: Location of receipt unknown to the seller, but purchaser's address only indicated on a payment instrument used in the transaction. X purchases a product at a retail store in Waterloo, Iowa. X pays with a check that lists a Fort Dodge, Iowa, address for X. X indicates to the retail store that X will arrange for a third-party shipping company to pick up the product. X does not provide a shipping address to the retail store. Even though the retail store does not have a shipping address or other address for X on file, the check lists an address for the purchaser in Fort Dodge. Therefore, the sale is sourced to Fort Dodge. See Iowa Code section 423.15(1) "d." The retailer must therefore collect state sales tax and any local option sales tax imposed in the city of Fort Dodge.

EXAMPLE 9: Location from which the item was shipped, if location of receipt is unknown to the seller and the seller has no other record or indication of buyer's address. X orders a product at a retail store in Adel, Iowa. X pays in cash and indicates to the retail store that X will arrange for a third-party shipping company to pick up the product. X does not provide a shipping address or a billing address, and the retail store does not have an address on file for X. Because X paid in cash, X's address is not indicated on a payment instrument. The retail store may source the sale to its location in Adel, Iowa. See Iowa Code section 423.15(1) "e." The retailer must therefore collect state sales tax and any local option sales tax imposed in the city of Adel.

223.6(2) General examples of sourcing of specified digital products. The following examples illustrate the sourcing principles of Iowa Code section 423.15(1) as applied to specified digital products.

EXAMPLE 1: Specified digital product purchased at seller's business location. Y owns and operates a restaurant in Sioux City, Iowa. Y provides guests access to an on-site electronic device on which guests may purchase access to video games to play while they wait to receive their food. Guests' access to the games ends once they pay their bill, and the charge for the access is included on the final bill. All sales of video games from Y's on-site electronic devices are sourced to Sioux City, the location at which guests receive access to the video games. See Iowa Code section 423.15(1) "a." Y must therefore collect state sales tax and any local option sales tax imposed in the city of Sioux City.

EXAMPLE 2: Location of receipt by purchaser known to seller. X purchases and receives a specified digital product on X's smart phone through an online application marketplace. The marketplace knows X is in Ames, Iowa, when X purchases and downloads the specified digital product. The sale is sourced to Ames because the product is received at that location (see Iowa Code section 423.1(43)) and that location is known to the seller. See Iowa Code section 423.15(1) "b." If the marketplace meets the thresholds described in Iowa Code section 423.14A(3), the marketplace must collect state sales tax and any local option sales tax imposed in the city of Ames.

EXAMPLE 3: Location of receipt by purchaser unknown, but purchaser's address is available from seller's business records. X purchases a specified digital product from C's website. Prior to purchasing the specified digital product, X creates a user account through C's website and lists X's home address in Jefferson, Iowa. When X purchases the specified digital product, C does not know where X received the specified digital product. Even though C does not know where the specified digital product is received by X, C's business records that are maintained in the ordinary course of business indicate that X's address is in Jefferson, Iowa. See Iowa Code section 423.15(1) "c." If C meets the thresholds described in Iowa

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Code section 423.14A(3), C must collect state sales tax and any local option sales tax imposed in the city of Jefferson.

EXAMPLE 4: Location of receipt by purchaser unknown, but purchaser's address only indicated on a payment instrument used in the transaction. X downloads a mobile video game application on X's phone through an online application marketplace. X pays for the video game with X's credit card. The marketplace saves the Ames, Iowa, home address associated with X's credit card. However, the marketplace does not know X's location when X downloads and purchases the video game. The marketplace may rely on the Ames address associated with X's payment information to source the sale. See Iowa Code section 423.15(1) "d." If the marketplace meets the thresholds described in Iowa Code section 423.14A(3), the marketplace must collect state sales tax and any local option sales tax imposed in the city of Ames.

223.6(3) *Examples of sourcing of leases and rentals of tangible personal property other than transportation equipment or products described in Iowa Code section 423.16.* The following examples illustrate the sourcing principles of Iowa Code section 423.15(2) as applied to leases or rentals of tangible personal property, other than transportation equipment as defined in Iowa Code section 423.15(3). This rule does not cover products described in Iowa Code section 423.16.

EXAMPLE 1A: Lease that requires recurring periodic payments. X resides in Indianola, Iowa. X enters into a rental agreement with Y, a furniture rental company located in Des Moines, for the rental of a couch. The agreement specifies that X will pay to Y a \$50 down payment and \$20 each month thereafter until the rental is terminated.

In exchange for possession of the couch, X makes the required \$50 down payment to Y at Y's office in Des Moines, Iowa. X receives the couch at Y's office in Des Moines, and X takes the couch to X's home in Indianola, Iowa. While purchasing the couch, X provides Y with X's Indianola address, which Y keeps on file. For the remainder of the rental period, X's primary address remains the same.

The first periodic payment—the down payment—is sourced the same as sales under Iowa Code section 423.15(1). See Iowa Code section 423.15(2) "a." In this case, the down payment was made and the product was received at the seller's business location. Iowa Code section 423.15(1) "a" governs the sourcing of the down payment. See subrule 223.5(1). Therefore in this case, the down payment is sourced to Des Moines. Y must collect state sales tax and any local option sales tax imposed in the city of Des Moines on the down payment.

Because X's home address is on file with Y for the remainder of the rental period, X's address is the "primary property location" of the couch during those periods. See Iowa Code section 423.15(2) "a." Therefore, the subsequent monthly payments are sourced to X's Indianola address that is contained in the records maintained by Y in the ordinary course of business. See Iowa Code section 423.15(2) "a." Y must collect state sales tax and any local option sales tax imposed in the city of Indianola on the monthly payments.

EXAMPLE 1B: Assume the same facts as Example 1A. In this example, however, X provides the \$50 down payment, gives Y X's home address in Indianola, Iowa, and arranges to have Y deliver the couch to X's home in Indianola, Iowa. The \$50 down payment constitutes the "first periodic payment" and is therefore sourced to Indianola in accordance with Iowa Code section 423.15(1) "b." See Iowa Code section 423.15(2) "a." Because Y knows the location where the product will be received by the purchaser, Y must collect Iowa sales and any local option sales tax applicable in the city of Indianola on the down payment. See subrule 223.6(1). The result is the same regardless of whether Y or a third-party shipping agent delivers the product and regardless of whether the product is shipped from outside of Iowa. See subrule 223.6(1), Examples 3 and 4.

All other facts and results from Example 1A remain the same.

EXAMPLE 1C: Same facts as in Example 1A. In this example, however, partway through the rental period, X moves to Clinton, Iowa, for the remainder of the rental period. X informs Y of the change in address and that X is bringing the couch to Clinton as part of the move. Y updates Y's business records to reflect X's new address and the location of the couch.

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Every payment that occurs after X informed Y of X's new address is sourced to Clinton, Iowa, because the "primary property location" as indicated by an address for the property provided by the lessee was updated to Clinton, Iowa. See Iowa Code section 423.15(2) "a."

EXAMPLE 1D: Same facts as Example 1A. X makes the first several monthly payments while residing in Indianola. However, partway through the rental period, X moves to Ames and brings the couch. X does not update Y about the new address and location of the couch. Y does not receive any record from X indicating X's new address.

Even though the couch is actually located in Ames, the "primary property location" indicated by an address for the property provided by X that is available to Y from records maintained in the ordinary course of business is the Indianola address. See Iowa Code section 423.15(2) "a." Therefore, Y is correct in sourcing each lease payment to Indianola.

EXAMPLE 2: Rental that does not require recurring periodic payments. B rents a woodchipper from C for a week in exchange for a single, up-front payment. C delivers the woodchipper to B at a location in Sioux Center, Iowa. The rental payment is sourced to Sioux Center, Iowa, because that is the location where B receives the woodchipper and the location is known to C, the seller. See Iowa Code section 423.15(1) "b." C must therefore collect state sales tax and any local option sales tax imposed in the city of Sioux Center. A rental that does not require recurring period payment is sourced the same as retail sales under Iowa Code section 423.15(1) and subrule 223.6(1). See Iowa Code section 423.15(2) "b."

223.6(4) Sales of items from vending machines. Sales from vending machines are sourced to the location of the individual vending machine at which the purchaser receives the item.

223.6(5) Sales of items by an itinerant merchant, peddler, or salesperson having a route. When an itinerant merchant, peddler, or mobile salesperson meets with a customer and solicits an order or completes a contract for sale and the customer receives the item at that location, the sale is sourced to that location pursuant to Iowa Code section 423.15(1) "b," regardless of whether the location is the customer's home, a business establishment, or elsewhere. This rule applies to all other sales by itinerant merchants, peddlers, and mobile salespersons in the same manner as they apply to any other seller.

223.6(6) Items purchased for resale but withdrawn from inventory. If a person purchases items for resale or processing but withdraws and uses any of those items from inventory or from a stock of materials held for processing, the gross receipts from the sales of the items withdrawn and used are sourced to the county in which they are withdrawn regardless of where the items were purchased for resale.

EXAMPLE: X owns and operates a home and furniture store located in Black Hawk County, Iowa. In Johnson County, Iowa, X purchases five rocking chairs. X provides the Johnson County retailer with sales tax exemption certificates stating that the rocking chairs are purchased for resale; the retailer accepts the certificates and does not charge Iowa sales tax on the sale of the rocking chairs. After returning to Black Hawk County, X decides to use one rocking chair in X's home instead of selling it. Because the rocking chair was withdrawn from inventory in Black Hawk County, sales tax and the applicable local option tax in Black Hawk County are due.

223.6(7) Items withdrawn from inventory by a manufacturer. Where a manufacturer manufactures tangible personal property and uses the property it manufactures for any purpose except for resale or processing, such use by the manufacturer is subject to sales tax and sourced to the county in which the manufacturer first used the property. Taxable use includes using such property as building materials, supplies, or equipment in the performance of a construction contract. Tax is computed upon the cost to fabricate the property. See rule 701—219.6(423) for more information.

EXAMPLE: X manufactures steel beams in Madison County, Iowa. X withdraws a beam from inventory to use on a construction project at its facility. X's withdrawal of the beam for use in the construction project is sourced to Madison County, Iowa, and sales tax and the applicable local option tax are due.

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AGENCY	RULE	DELAY
Pharmacy Board[657]	Amendments to ch 39 [IAB 1/30/19, ARC 4270C]	Effective date of March 6, 2019, delayed 70 days by the Administrative Rules Review Committee at its meeting held February 8, 2019. [Pursuant to §17A.4(7)]