



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; 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.

STEPHANIE A. HOFF, Administrative Code Editor

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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 2018

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
20	Friday, March 9, 2018	March 28, 2018
21	Friday, March 23, 2018	April 11, 2018
22	Friday, April 6, 2018	April 25, 2018

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator's office.

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, March 9, 2018, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Need for professional architectural services—exceptions, 5.1, 5.3, 5.4 Notice **ARC 3661C** 2/28/18

ATTORNEY GENERAL[61]

Late charge for creditors and debt collectors—increase in fee, 22.6(1) Filed **ARC 3629C** 2/14/18

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Licensure; authorizations; endorsements; conversion information, amend chs 13, 15, 16, 18, 22, 27; rescind ch 21 Filed **ARC 3633C** 2/14/18

Teacher leadership and compensation model for mentoring; computer science endorsement, 13.7, 13.28 Filed **ARC 3634C** 2/14/18

EDUCATION DEPARTMENT[281]

High-quality standards for computer science, 12.11 Notice **ARC 3613C** 2/14/18

High school equivalency diploma, ch 32 Filed **ARC 3630C** 2/14/18

Special education—regular high school diploma, assessments, 41.102(1), 41.160 Notice **ARC 3614C** 2/14/18

Child development grants and coordinating council, amendments to ch 64 Notice **ARC 3612C** 2/14/18

Teacher quality program, 83.1 to 83.3, 83.4(9), 83.5(3), 83.6(1)"e," 83.7 Filed **ARC 3631C** 2/14/18

Financial management of categorical funding, amendments to ch 98 Filed **ARC 3632C** 2/14/18

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Asbestos notification fee; fee adjustment process, 30.3, 30.6 Notice **ARC 3622C** 2/14/18

Initial issuance of NPDES General Permit Nos. 8 and 9, 64.3, 64.4, 64.6, 64.15, 64.16 Notice **ARC 3625C** 2/14/18

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Transfer of duties from Iowa emergency response commission to department; local

emergency planning committees, rescind chs 100, 101; amend chs 102, 103 Filed **ARC 3663C** 2/28/18

HUMAN SERVICES DEPARTMENT[441]

Appeals and hearings, 7.5(4), 7.16, 7.21(3), 7.46 Notice **ARC 3652C** 2/28/18

Autism support program—eligibility, 22.1, 22.2(4) Notice **ARC 3619C** 2/14/18

Psychiatric bed tracking system—participation by state mental health institutes and certain hospitals, 77.3(3) Notice **ARC 3659C** 2/28/18

Child care assistance—fee schedule, temporary lapse in need for service, wait list exemption for homeless families, 170.2, 170.4(2) Notice **ARC 3651C** 2/28/18

INSPECTIONS AND APPEALS DEPARTMENT[481]

Iowa targeted small business certification program; administration division, amend 1.3, 30.1;

rescind ch 25 Notice **ARC 3650C** 2/28/18

Investigations division, 1.4 Notice **ARC 3649C** 2/28/18

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Investment adviser's business and continuity succession plan; merger and acquisition

brokers; intrastate crowdfunding offerings; securities industry essentials exam; electronic filing depository system, amendments to ch 50 Notice **ARC 3615C** 2/14/18

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Boilers and pressure vessels, 81.5, 82.1, 83.1(1), 84.1(1), 85.3(1), 90.15(1), 91.1(2), 91.13(3), 93.2 Filed **ARC 3635C** 2/14/18

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Continuing education, 3.1 to 3.3 Notice **ARC 3653C** 2/28/18

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Storage of stand-up paddleboards, 16.1, 16.4(3)	Notice	ARC 3626C	2/14/18
Artificial and natural marshes; decoys; wildlife refuges, 45.5, 45.6, 51.6(3), 52.1	Notice	ARC 3627C	2/14/18
Waterfowl and coot hunting seasons, 91.1, 91.3, 91.6	Notice	ARC 3623C	2/14/18
Falconry, 101.1, 101.3 to 101.7	Notice	ARC 3621C	2/14/18
Bobcat harvest zone, 108.7(2)	Notice	ARC 3624C	2/14/18

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Supervision by licensed practical nurses, 6.5(1)	Notice	ARC 3660C	2/28/18
Nurse licensure compact, rescind ch 16	Notice	ARC 3618C	2/14/18

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Pharmacist licensure by examination—provision of ITIN and proof of presence, 2.2(1)	Filed	ARC 3636C	2/14/18
Registration of services programs that provide controlled substances; update of cross references, 5.17, 11.3, 11.26(2), 11.27, 11.33	Filed	ARC 3637C	2/14/18
General pharmacy practice, amendments to ch 6	Filed	ARC 3638C	2/14/18
End of prescriber/patient relationship—dispensing of remaining prescription refills, 8.20	Filed	ARC 3639C	2/14/18
Automated medication distribution systems and telepharmacy services; electronic data and automated systems in pharmacy practice, rescind chs 9, 21; adopt ch 21	Filed	ARC 3640C	2/14/18
Agency procedure for rule making, ch 28	Filed	ARC 3641C	2/14/18

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Polysomnographic technologists and respiratory care and polysomnographic practitioners—licensure and continuing education, amendments to chs 261, 262	Notice	ARC 3617C	2/14/18
Physician assistant practice—sharing of information about complaints, 327.8	Filed	ARC 3642C	2/14/18

PUBLIC SAFETY DEPARTMENT[661]

Statewide sobriety and drug monitoring program, ch 159	<u>Notice</u>	ARC 3628C	2/14/18
Carbon monoxide alarms, ch 211	<u>Filed Emergency After Notice</u>	ARC 3662C	2/28/18
License to disconnect or reconnect existing air-conditioning and refrigeration systems, 502.2(9)“b”	<u>Notice</u>	ARC 3656C	2/28/18

REVENUE DEPARTMENT[701]

First-time homebuyer savings accounts, 40.82	Notice	ARC 3657C	2/28/18
Deduction for contributions to Iowa education savings plan trust, 40.53, 41.5(18), 53.21	Filed	ARC 3664C	2/28/18
Grounds for protest of property tax assessment, 71.20(4), 71.21(8)	Notice	ARC 3620C	2/14/18
Industrial property tax exemption—correction of cross reference, 80.6(1)	Notice	ARC 3654C	2/28/18
Forest and fruit-tree reservation exemption—adjustment in deadline for notification of property owners, 80.9(3)	Notice	ARC 3655C	2/28/18

SECRETARY OF STATE[721]

Fee increase to fund technology modernization fund—sunset provision, 2.3	Filed	ARC 3643C	2/14/18
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UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Documents filed with the board; forms, 2.1, 2.2, 2.4	Filed	ARC 3644C	2/14/18
Declaratory orders, amendments to ch 4	Filed	ARC 3645C	2/14/18
Nonutility activities—record keeping, cost allocations, 33.2, 33.3(2), 33.4 to 33.7	Filed	ARC 3646C	2/14/18
Equipment distribution program, 37.1 to 37.6	Filed	ARC 3665C	2/28/18

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Employer registration penalties, rescind 22.9(3)	Notice	ARC 3658C	2/28/18
Taxable wages; claims; federal payment offset, 23.6(2), 24.3, 25.17	Filed	ARC 3647C	2/14/18
Claims and benefits—reporting by claimants, 24.2(1)"e"	Filed	ARC 3648C	2/14/18

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Jim Carlin
43 Arlington Road
Sioux City, Iowa 51106

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

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Representative Megan Jones
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Sioux Rapids, Iowa 50585

Representative Amy Nielsen
168 Lockmoor Circle
North Liberty, Iowa 52317

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

Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

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

ARCHITECTURAL EXAMINING BOARD[193B]

Need for professional architectural services—exceptions, 5.1, 5.3, 5.4 IAB 2/28/18 ARC 3661C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	March 20, 2018 9 to 9:30 a.m.
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EDUCATION DEPARTMENT[281]

High-quality standards for computer science, 12.11 IAB 2/14/18 ARC 3613C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	March 27, 2018 9 to 10 a.m.
Special education—regular high school diploma, assessments, 41.102(1), 41.160 IAB 2/14/18 ARC 3614C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	March 27, 2018 10 to 11 a.m.
Child development grants and coordinating council, amendments to ch 64 IAB 2/14/18 ARC 3612C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	March 27, 2018 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Asbestos notification fee; fee adjustment process, 30.3, 30.6 IAB 2/14/18 ARC 3622C	Conference Room 2 North Wallace State Office Bldg. Des Moines, Iowa	March 6, 2018 1 p.m.
Initial issuance of NPDES General Permit Nos. 8 and 9, 64.3, 64.4, 64.6, 64.15, 64.16 IAB 2/14/18 ARC 3625C	Coralville Public Library 1401 5th St. Coralville, Iowa	March 7, 2018 4 p.m.
	Harlan Community Library 718 Court St. Harlan, Iowa	March 8, 2018 4 p.m.
	Urbandale Public Library 3520 86th St. Urbandale, Iowa	March 14, 2018 4 p.m.

INSURANCE DIVISION[191]

Investment adviser's business and continuity succession plan; merger and acquisition brokers; intrastate crowdfunding offerings; securities industry essentials exam; electronic filing depository system, amendments to ch 50 IAB 2/14/18 ARC 3615C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	March 6, 2018 10:30 a.m.
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LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Continuing education, 3.1 to 3.3 IAB 2/28/18 ARC 3653C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	March 20, 2018 9 to 9:30 a.m.
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NATURAL RESOURCE COMMISSION[571]

Storage of stand-up paddleboards, 16.1, 16.4(3) IAB 2/14/18 ARC 3626C	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	March 7, 2018 1 p.m.
Artificial and natural marshes; decoys; wildlife refuges, 45.5, 45.6, 51.6(3), 52.1 IAB 2/14/18 ARC 3627C	Conference Room 3 E & W Wallace State Office Bldg. Des Moines, Iowa	March 6, 2018 12 noon
Waterfowl and coot hunting seasons, 91.1, 91.3, 91.6 IAB 2/14/18 ARC 3623C	Conference Room 3 E & W Wallace State Office Bldg. Des Moines, Iowa	March 6, 2018 12 noon
Falconry, 101.1, 101.3 to 101.7 IAB 2/14/18 ARC 3621C	Conference Room 3 E & W Wallace State Office Bldg. Des Moines, Iowa	March 6, 2018 12 noon
Bobcat harvest zone, 108.7(2) IAB 2/14/18 ARC 3624C	Conference Room 3 E & W Wallace State Office Bldg. Des Moines, Iowa	March 6, 2018 12 noon

PROFESSIONAL LICENSURE DIVISION[645]

Polysomnographic technologists and respiratory care and polysomnographic practitioners—licensure and continuing education, amendments to chs 261, 262 IAB 2/14/18 ARC 3617C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	March 7, 2018 8:30 to 9 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Statewide sobriety and drug monitoring program, ch 159 IAB 2/14/18 ARC 3628C	First Floor Public Conference Room 125 Oran Pape State Office Bldg. Des Moines, Iowa	March 6, 2018 10 to 11 a.m.
License to disconnect or reconnect existing air-conditioning and refrigeration systems, 502.2(9)“b” IAB 2/28/18 ARC 3656C	First Floor Public Conference Room 125 Oran Pape State Office Bldg. Des Moines, Iowa	March 20, 2018 10 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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Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 3661C

ARCHITECTURAL EXAMINING BOARD[193B]

Notice of Intended Action

**Proposing rule making related to professional architectural services
and providing an opportunity for public comment**

The Architectural Examining Board hereby proposes to amend Chapter 5, “Exceptions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 544A.29.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 544A.18.

Purpose and Summary

The rules in Chapter 5 provide definitions of structures and describe when professional architectural services are needed. The proposed amendments provide greater clarity both to building officials and members of the public as to when the services of an architect are required.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 no later than 4:30 p.m. on March 20, 2018. Comments should be directed to:

Lori SchraderBachar
Architectural Examining Board
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Email: lori.schraderbachar@iowa.gov

Public Hearing

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

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March 20, 2018
9 to 9:30 a.m.

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

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 193B—5.1(544A) as follows:

193B—5.1(544A) Definitions. The following definitions apply as used in Iowa Code chapter 544A, and this chapter of the architectural examining board rules, ~~unless the context otherwise requires.~~

~~“Accessory buildings” means one or more buildings separate from, but accessory to, a main building, including, but not limited to, a garage or storage building serving a main building.~~ a building or structure of an accessory character and miscellaneous structures not classified in any specific occupancy or use. ~~“Accessory buildings” shall be constructed, equipped and maintained to conform to the requirements corresponding to the fire and life hazard incidental to the buildings’ occupancy. “Accessory buildings” is intended to encompass the uses listed in Group U of the 2015 International Building Code ®.~~

~~“Agricultural building” means a structure designed to house farm implements, hay, grain, poultry, livestock or other agricultural products. For the purpose of this definition, this structure shall not contain habitable space or a place of employment where agricultural products are processed or treated or packaged; nor shall it be a place used by the public.~~

~~“Alter” or “alteration” means any change, addition or modification to an existing building in its construction or occupancy.~~

~~“Basement” means any floor level below the first story in a building, except that a floor level in a building having only one floor shall be classified as a basement unless such floor level qualifies as a first story as defined herein.~~

~~“Church” means a building or portion thereof intended for the performance of religious services.~~

~~“Commercial” or “commercial use” means any of the following:~~

- ~~● A building used for buying, selling or exchange of goods or services,~~
- ~~● Drinking and dining establishments having an occupant load of fewer than 50,~~
- ~~● Wholesale and retail stores,~~
- ~~● Office buildings,~~
- ~~● Printing plants,~~
- ~~● Factories and workshops, and~~
- ~~● Buildings or portions of buildings having rooms used for educational purposes beyond the twelfth grade, with fewer than 50 occupants in any room.~~

~~“Commercial” does not include the other uses described herein:~~

- ~~● Accessory buildings,~~
- ~~● Educational buildings,~~
- ~~● Factory-built buildings,~~

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

- ~~Governmental-use buildings,~~
- ~~Industrial-use buildings,~~
- ~~Institutional-use buildings,~~
- ~~Hazardous-use buildings,~~
- ~~Light industrial,~~
- ~~Places of assembly,~~
- ~~Residential dwellings, and~~
- ~~Warehouses.~~

1. The use of a building or structure, or a portion thereof, for office, professional, or service-type transactions, including storage of records and accounts.

2. The use of a building or structure, or a portion thereof, for the display and sale of merchandise, and involves stocks of goods, including wares or merchandise incidental to such purposes and accessible to the public.

“Commercial use” is intended to encompass the uses listed in Group B and Group M of the 2015 International Building Code ®.

“Detached” means a structure separated by distance and not connected to another structure.

“ Dwelling unit ” means any building or portion thereof which contains a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, or cooking and sanitation, for not more than one family, or a congregate residence, such as a group home for ten or fewer persons.

“Educational use” means a building used for educational purposes through the twelfth grade for more than 12 hours per week or more than 4 hours in any one day, and any building used for day-care purposes for more than six children the use of a building or structure, or a portion thereof used (1) by six or more persons at any one time for education purposes through twelfth grade; or (2) by six or more children for day care purposes. Rooms and spaces within places of religious worship providing such day care during religious functions and day cares serving five or fewer children shall be classified as part of the primary occupancy. “Educational use” is intended to encompass the uses listed in Group E of the 2015 International Building Code ®.

“Factory-built buildings” means buildings that have been designed, engineered, fabricated and wholly or partly assembled in a manufacturing facility for assembly and installation on a building site. A preengineered building utilizing standard building components assembled on the building site is not considered a “factory-built building.” Such factory-built buildings, in order to qualify for the exception established by Iowa Code section 544A.18, must either: any structure which is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on a building site. “Factory-built buildings” includes the terms “mobile home,” “manufactured home,” and “modular home.”

1. ~~Not exceed limitations on size and use established by Iowa Code section 544A.18, or~~

2. ~~The seal applied by a professional engineer or architect shall apply to the entire assembly, not a specific element of the assembly.~~

“Family dwelling unit” is any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one family. Congregate residences, such as group homes, are not “family dwelling units.” means the same as “dwelling unit.”

“Governmental use” means a building or portion of a building owned or occupied by a municipal, county, state, federal, or other public agency including, but not limited to, municipal fire and police stations and libraries.

“Gross floor area” means the aggregate floor area of an entire building enclosed by and including the surrounding exterior walls, and including the aggregate total area of existing, new and additional construction which is physically connected by enclosed space the area included within the surrounding exterior walls of a building. Areas of the building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the supporting structure of the roof or floor above.

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“Habitable space (room)” means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered “habitable space.”

“Hazardous use” means the use of a building or structure, or a portion thereof, which involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard. “Hazardous use” is intended to encompass the uses listed in Group H of the 2015 International Building Code ®.

“Industrial use” means ~~any of the following:~~ the use of a building or structure, or a portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair, or processing operations that are not classified as hazardous use. “Industrial use” is intended to encompass the uses listed in Group F of the 2015 International Building Code ®.

● ~~A building used for the manufacturing, fabrication, or assembly of goods or materials including aircraft hangars;~~

- ~~Open parking garages;~~
- ~~Helistops;~~
- ~~Ice plants;~~
- ~~Power plants;~~
- ~~Pumping plants;~~
- ~~Cold storage and creameries; and~~
- ~~Factories and workshops.~~

“Institutional use” means ~~any of the following:~~ the use of a building or structure, or a portion thereof, in which persons are receiving custodial or medical care, in which persons are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Day care facilities as defined in educational use are not considered institutional uses. “Institutional use” is intended to encompass the uses listed in Group I of the 2015 International Building Code ®. Facilities with five or fewer persons receiving custodial care may be considered a residential use or be considered part of the primary occupancy as listed in Group I of the 2015 International Building Code ®.

● ~~Nurseries for the full-time care of children under the age of six, accommodating more than five persons;~~

- ~~Hospitals;~~
- ~~Sanitariums;~~
- ~~Nursing homes;~~
- ~~Homes for children six years of age or over, accommodating more than five persons;~~
- ~~Mental hospitals, mental sanitariums, jails, prisons, reformatories, and buildings where personal liberties of persons are similarly restrained;~~
- ~~Group homes; and~~
- ~~Adult day-care facilities.~~

“International Building Code” is a model building code developed by the International Code Council. The 2015 International Building Code ® is available from the state library of Iowa or the board or online at codes.iccsafe.org.

“Light industrial” means ~~buildings used solely to house industrial use that are not more than one story in height and not exceeding 10,000 square feet in gross floor area, or are not more than two stories in height and not exceeding 6,000 square feet in gross floor area~~ that involve fabrication or manufacturing of noncombustible materials which, during finishing, packing, or processing, are not classified as hazardous use.

“Mixed building use” means a building containing more than one use classification.

“Nonstructural alterations” means modifications to an existing building which do not include any changes to structural members of a building, or do not modify means of egress, handicap accessible routes, fire resistivity or other life safety concerns.

“Occupancy” means ~~the~~ a purpose for which a building, or part thereof, is used or intended to be used.

“Office use” means a building housing a commercial use.

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“Outbuildings” ~~has means the same meaning as~~ “accessory buildings.”

“Place of assembly of people or public gathering” ~~means a building or a portion of a building used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking or dining, or awaiting transportation the use of a building or structure, or a portion thereof, for the gathering of persons such as for civic, social, or religious functions; recreation, food or drink consumption; or awaiting transportation.~~ “Place of assembly of people or public gathering” is intended to encompass the uses listed in Group A of the 2015 International Building Code ®. Places of assembly with occupancy of fewer than 50 people shall be considered part of the primary occupancy.

“Residential use” ~~includes hotels, apartment houses, dwellings, and lodging houses~~ means the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an institutional use. “Residential use” is intended to encompass the uses listed in Group R of the 2015 International Building Code ®.

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor or roof next above, ~~except that the topmost story shall be that portion of the building included between the upper surface of the topmost floor and the ceiling or roof above.~~ If the finished floor level directly above a usable or unused under floor space is more than 6 feet (1829 mm) above grade for more than 50 percent of the total perimeter or is more than 12 feet (3658 mm) above grade at any point, such usable or unused under floor space shall be considered a story.

“Story, first” means the lowest story of a building which qualifies as a story, as defined herein, ~~except that the floor level in a building having only one floor level shall be classified as a first story, provided such floor is not more than 4 feet (1219 mm) below grade for more than 50 percent of the total perimeter, or not more than 8 feet (2438 mm) below grade at any point.~~

“Structural members” consists of building elements which carry an imposed load of weight and forces in addition to their own weight including, but not limited to, loads imposed by forces of gravity, wind, and earthquake. Structural members include, but are not limited to, footings, foundations, columns, load-bearing walls, beams, girders, purlins, rafters, joists, trusses, lintels, and lateral bracing.

“Structure” means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

“Use” ~~has means the same meaning as~~ “occupancy.”

“Warehouses” or *“warehouse use”* means a building used for the storage of goods or materials ~~the use of a building or structure, or portion thereof, for storage that is not classified as a hazardous use.~~ “Warehouse use” is intended to encompass the uses listed in Group S of the 2015 International Building Code ®.

ITEM 2. Amend rule 193B—5.3(544A) as follows:

193B—5.3(544A) Building use takes priority over size. ~~In all cases~~ The following criteria shall be used when applying the exceptions outlined in Iowa Code section 544A.18 and rule 193B—5.2(544A);

5.3(1) Building use takes priority over size. In all cases, the use of the building takes priority over the size. For example, a place of assembly ~~or governmental use~~ is not a commercial use, and would not constitute an exception even if the building is not more than one story in height and does not exceed more than 10,000 square feet in gross floor area.

5.3(2) Mixed building use. In the case that a building contains more than one use, the most stringent use is applied to the entire building when applying the exceptions. For example, a two-story building containing a 6,000 square foot commercial space as well as 6,000 square feet of residential space on the second floor would be considered a 12,000 square foot, two-story commercial building for the purposes of the exception matrix.

5.3(3) Agricultural buildings. Activities inherent to housing farm implements, farm inputs, farm products, and livestock or other agricultural products, such as record keeping, sanitation, storage of farm inputs, or equipment preparation, repair, or modifications, shall not be construed as a use in and of itself for the purposes of applying the exceptions. For example, welding operations to repair an implement or

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grain-handling equipment would not trigger the consideration of an agricultural building or a portion of the building as an industrial use.

5.3(4) Churches and accessory buildings. When under the height and gross floor area noted in the exception and encompassing uses inherent to a church or an accessory building as defined, these buildings are exempted, even if the use within the building would normally not be exempted. For example, a church used as a place of assembly with occupancy of more than 50 people but still under the height and gross floor area noted would still be exempted even though the occupancy would place the building in the nonexempted category.

ITEM 3. Amend rule 193B—5.4(544A) as follows:

193B—5.4(544A) Exceptions matrix. The following matrix is compiled to illustrate the exceptions outlined in Iowa Code section 544A.18 and rule 193B—5.2(544A). The laws and rules governing the Practice of Engineering are not illustrated herein.

BUILDINGS NEW CONSTRUCTION			
Building Use Type	Description	Architect Required	Architect May Not Be Required
Agricultural use	Including grain elevators and feed mills		X
Churches and accessory buildings whether attached or separate	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
	Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
	More than two stories in height	X	
Commercial use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
	Two stories in height, greater than 6,000 square feet of gross floor area	X	
	More than two stories in height	X	
Detached residential use	One, two or three stories in height, containing 12 or fewer family dwelling units		X
	More than 12 family dwelling units	X	
	More than three stories in height	X	
	Outbuildings in connection with detached residential buildings		X
Educational use		X	
Governmental use		X	
Hazardous use		X	
Industrial use		X	
Institutional use		X	
Light industrial use			X
Places of assembly		X	

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BUILDINGS NEW CONSTRUCTION			
Building Use Type	Description	Architect Required	Architect May Not Be Required
Warehouse use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	More than one story in height	X	
Factory-built buildings	Any height and size, if certified by a professional engineer licensed under Iowa Code chapter 542B		X
	One or two stories in height, up to a maximum of 20,000 square feet in gross floor area		X
	One or two stories in height, greater than 20,000 square feet in gross floor area	X	
	More than two stories in height	X	
	More than 20,000 square feet in gross floor area	X	

ALTERATIONS TO EXISTING BUILDINGS			
Alteration Type	Description	Architect Required	Architect May Not Be Required
Structural alterations to exempt buildings	Modifications which change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns		X
Structural alterations to nonexempt buildings	Modifications which change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns	X	
Nonstructural alteration	Which does not modify means of egress, handicap accessible path, fire resistivity or other life safety concerns		X
	Which maintains the previous type of use		X
Nonstructural alteration which changes the use of the building from any other use to:	A place of assembly of people or public gathering	X	
	Governmental use	X	
	Educational use	X	
	Hazardous use	X	
	A place of residence Residential use exempted		X
	A place of residence Residential use not exempted otherwise		
	and is one, two or three stories in height and contains not more than 12 family dwelling units		
	and is more than three stories in height	X	
	and containing more than 12 family dwelling units	X	

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ALTERATIONS TO EXISTING BUILDINGS				
Alteration Type	Description		Architect Required	Architect May Not Be Required
Nonstructural alterations which change the use of the building from industrial or warehouse to:	Commercial or office use	and is one story in height and not greater than a maximum of 10,000 square feet in gross floor area		X
		and is one story in height and greater than 10,000 square feet in gross floor area	X	
		and is two stories in height and not greater than a maximum of 6,000 square feet in gross floor area		X
		and is two stories in height and greater than 6,000 square feet in gross floor area	X	
		and is more than two stories in height	X	
		and is greater than 10,000 square feet of gross floor area	X	
Nonstructural alterations to:	Agricultural use	Including grain elevators and feed mills		X
	Churches and accessory building uses	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
		Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
		More than two stories in height	X	
	Commercial use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
		Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
		Two stories in height, greater than 6,000 square feet in gross floor area	X	
		More than two stories in height	X	
	Detached residential buildings	One, two or three stories in height, containing 12 or fewer family dwelling units		X
		More than 12 family dwelling units	X	
		More than three stories in height	X	
		Outbuildings in connection with detached residential buildings		X
	Educational use		X	
	Governmental use		X	
	Hazardous use		X	
	Industrial use		X	
	Institutional use		X	
	Light industrial use			X
	Places of assembly		X	
	Warehouse use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
		More than one story in height	X	
	Factory-built buildings	Any height and size if entire building is certified by a professional engineer licensed under Iowa Code chapter 542B		X

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ALTERATIONS TO EXISTING BUILDINGS				
Alteration Type	Description		Architect Required	Architect May Not Be Required
		One or two stories in height, up to a maximum of 20,000 square feet of gross floor area		X
		One or two stories in height, greater than 20,000 square feet in gross floor area	X	
		More than two stories in height	X	
		More than 20,000 square feet in gross floor area	X	

ARC 3652C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to appeals and providing an opportunity for public comment**

The Department of Human Services hereby proposes to amend Chapter 7, “Appeals and Hearings,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6 and 42 CFR 438.424.

Purpose and Summary

Federal regulations recently changed the time frame within which individuals would be allowed to file a request for a state fair hearing regarding managed care organization appeals. The time frame has been extended from 90 days to 120 days. These proposed amendments update the time that individuals have to file a state fair hearing request regarding a managed care organization decision.

Federal regulations also changed the effectuation of a reversed appeal resolution for managed care organization appeals. Federal regulations indicate that if a state fair hearing officer reverses a managed care organization’s decision to deny, limit or delay services that were not furnished while the appeal was pending, the managed care organization must authorize or provide the disputed services promptly and as expeditiously as the enrollee’s health condition requires but no later than 72 hours from the date the managed care organization receives notice reversing the determination. The federal regulation previously did not include the 72-hour requirement. The proposed amendments include this requirement.

In a previous rule making, the Department adopted amendments to remove the requirement that Notices of Hearing for an intentional program violation be mailed both by certified mail and by first-class mail. However, after those amendments were adopted, the Department realized a second reference to the certified mail requirement had erroneously not been removed. The remaining reference to the certified mail requirement is removed in these proposed amendments to eliminate confusion.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. There have been recent changes in federal regulations regarding state fair hearings for managed care organization appeals. The proposed

HUMAN SERVICES DEPARTMENT[441](cont'd)

amendments bring the Department's rules into alignment with the federal regulations. The proposed amendments are beneficial to the Department's customers and to Department staff.

Jobs Impact

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

Waivers

These amendments do not include waiver provisions because the amendments confer benefits on those affected and because they are generally required by federal law that does not allow for waivers. Individuals may request a waiver under the Department's general rule on exceptions at rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 20, 2018. Comments should be directed to:

Harry Rossander
Bureau of Policy Analysis
Department of Human Services
Hoover Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319
Fax: 515.281.4980
Email: policyanalysis@dhs.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 7.5(4) as follows:

7.5(4) *Time limit for granting hearing to an appeal.* Subject to the provisions of subrule 7.5(1), when an appeal is made, the granting of a hearing to that appeal shall be governed by the following timeliness standards:

a. No change.

b. *Food assistance, medical assistance eligibility, fee-for-service medical coverage, family planning program or autism support program standard.* For appeals regarding food assistance, medical assistance eligibility, fee-for-service medical coverage, the family planning program or the autism

HUMAN SERVICES DEPARTMENT[441](cont'd)

support program, a hearing shall be held if the appeal is made within 90 days after official notification of an action. ~~For appeals regarding a health care decision made by a managed care organization, a hearing shall be held if the appeal is made within 90 days after written notification that the first-level review process through the managed care organization has been exhausted. A hearing shall be held if the appeal is made within 90 days after the appeal is deemed to have exhausted the managed care organization's appeals process, as provided in paragraph 7.2(5) "c."~~

c. Managed care organization medical coverage. For appeals regarding a health care decision made by a managed care organization, a hearing shall be held if the appeal is made within 120 days after written notification that the first-level review process through the managed care organization has been exhausted. A hearing shall be held if the appeal is made within 120 days after the appeal is deemed to have exhausted the managed care organization's appeals process, as provided in paragraph 7.2(5) "c."

~~e. d.~~ Offset standards. For appeals regarding state or federal tax or debtor offsets, a hearing shall be held if the appeal is made within 15 days after official notification of the action. Counties have 30 days to appeal offsets, as provided in 441—subrule 14.4(3). When the appeal is made more than 15 days but less than 90 days after notification, the director shall determine whether a hearing shall be granted.

(1) The director may grant a hearing if one or more of the following conditions existed:

1. There was a serious illness or death of the appellant or a member of the appellant's family.
2. There was a family emergency or household disaster, such as a fire, flood, or tornado.
3. The appellant offers a good cause beyond the appellant's control, which can be substantiated.
4. There was a failure to receive the department's notification for a reason not attributable to the appellant. Lack of a forwarding address is attributable to the appellant. A hearing may be granted if an appellant provides proof that a forwarding address was not supplied due to fear of domestic violence, homelessness, or other good cause.

(2) The time in which to appeal an offset action shall not exceed 90 days. Appeals made more than 90 days after notification shall not be heard.

(3) The day after the official notice is sent is the first day of the period within which an appeal must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

~~d. e.~~ Abuse standard.

(1) For appeals regarding dependent adult abuse, a hearing shall be held if the appeal is made within six months after official notification of the action as provided in Iowa Code section 235B.10.

(2) For appeals regarding child abuse, a hearing shall be held if the appeal is made by a person alleged responsible for the abuse within 90 days after official notification of the action as provided in Iowa Code section 235A.19. A subject of a child abuse report, other than the alleged person responsible for the abuse, may file a motion to intervene in the hearing within 10 calendar days after the appeal notification.

(3) The day after the official notice is sent is the first day of the period within which an appeal must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

~~e. f.~~ Displacement and discrimination standard. PROMISE JOBS displacement and discrimination appeals shall be granted hearing on the following basis:

(1) An appeal of an informal grievance resolution on a PROMISE JOBS displacement grievance shall be made in writing within 10 days of issuance (i.e., mailing) of the resolution decision or within 24 days of the filing of the displacement grievance, whichever is the shorter time period, unless good cause for late filing as described in subparagraph 7.5(4) "a"(1) is found.

(2) An appeal of a PROMISE JOBS discrimination complaint shall be made within the time frames provided in paragraph 7.5(4) "a" in relation to the action alleged to have involved discrimination.

f. g. Risk assessment standard. An appeal of a sex offender risk assessment shall be made in writing within 14 calendar days of issuance of the notice.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend rule 441—7.16(17A) as follows:

441—7.16(17A) The appeal decision.

7.16(1) to 7.16(5) No change.

7.16(6) *Appeal of the proposed decision by the department.* The appeals advisory committee acts as an initial screening device for the director and may recommend that the director review a proposed decision. That recommendation is not binding upon the director, and the director may decide to review a proposed decision without that committee's recommendation.

A request by the department for director's review of the proposed decision must be made in writing. The written request must be submitted to the appeals ~~section~~ advisory committee in person or submitted through an electronic delivery method, such as electronic mail or facsimile, within ten calendar days of the date on which the proposed decision was sent. The day after the proposed decision is sent is the first day of the time period within which a request for director's review must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

When the director grants a review of a proposed decision on the department's request, the appeals section shall notify all other parties to the appeal of the review and send a copy of the request to all other parties. All other parties shall be provided ten calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

Written arguments or objections must be mailed or submitted in person to the appeals section or submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile.

The day after the notification is sent is the first day of the time period within which a response to the department's request for review must be filed. When the time limit for responding falls on a holiday or a weekend, the time will be extended to the next workday.

7.16(7) *Appeal of the proposed decision by the managed care organization.* The appeals advisory committee acts as an initial screening device for the director and may recommend that the director review a proposed decision. That recommendation is not binding upon the director, and the director may decide to review a proposed decision without that committee's recommendation.

A request by the managed care organization for director's review of the proposed decision must be made in writing. The written request must be submitted to the appeals advisory committee in person or submitted through an electronic delivery method, such as electronic mail or facsimile, within 72 hours of the date on which the proposed decision was sent. The day after the proposed decision is sent is the first day of the time period within which a request for director's review must be filed.

When the director grants a review of a proposed decision on the managed care organization's request, the appeals section shall notify all other parties to the appeal of the review and send a copy of the request to all other parties. All other parties shall be provided ten calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

Written arguments or objections must be mailed or submitted in person to the appeals section or submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile.

The day after the notification is sent is the first day of the time period within which a response to the department's request for review must be filed. When the time limit for responding falls on a holiday or a weekend, the time will be extended to the next workday.

7.16(7) 7.16(8) *Appeal of the proposed decision by the appellant.* When the director grants a review of a proposed decision, all other parties shall be so notified.

7.16(8) 7.16(9) *Opportunity for oral presentation of appeal of the proposed decision.* In cases where there is an appeal of a proposed decision, each party shall be afforded an opportunity to present oral arguments with the consent of the director. Any party wishing oral argument shall specifically request it. When granted, all parties shall be notified of the time and place.

7.16(9) 7.16(10) *Time limits.*

a. A final decision on the appeal shall be issued within the following time frames:

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) Appeals for all programs, except food assistance, shall be rendered within 90 days from the date of the appeal.

(2) Food assistance-only decisions shall be rendered within 60 days.

(3) PROMISE JOBS displacement grievance decisions shall be rendered within 90 days from the date the displacement grievance was filed with the PROMISE JOBS contractee.

b. Failure to reach a decision within the time frames set forth in paragraph ~~7.16(9) "a"~~ 7.16(10) "a" shall not affect the merits of the appellant's appeal.

c. Time frames may be extended based on continuances or additional time frames as approved by the presiding officer. Should the appellant request a delay in the hearing in order to prepare the case or for other essential reasons, reasonable time, not to exceed 30 days except with the approval of the administrative law judge, shall be granted and the extra time shall be added to the maximum for final administrative action.

d. For an appeal regarding child abuse, if the proposed decision is not appealed within 10 days from the date of the proposed decision, the proposed decision shall be the final agency action. If a party files an appeal within 10 days from the date of the proposed decision, the director has 45 days from the date of the proposed decision to issue a ruling. If the director does not rule within that 45-day period, the proposed decision becomes the final decision as provided in Iowa Code section 235A.19.

e. The department shall take prompt, definite and final administrative action to carry out the decision rendered within seven calendar days of receipt of a copy of the final decision. ~~When the final decision is favorable to the appellant, or when the department decides in favor of the appellant before the hearing, the department shall make any additional corrective payments due, retroactive to the date of the incorrect action.~~ for all programs, except as provided in paragraph 7.6(10) "f."

f. If the administrative law judge reverses a decision to deny, limit or delay services that were not furnished while the appeal was pending, the managed care organization must authorize or provide the disputed services promptly and as expeditiously as the appellant's health condition requires but no later than 72 hours from the date on the proposed decision.

If the administrative law judge reverses a decision to deny authorization of services and the appellant received the disputed services while the appeal was pending, the managed care organization must pay for those services pursuant to subrules 7.9(5) and 7.9(6).

g. When the final decision is favorable to the appellant or when the department decides in favor of the appellant before the hearing, the department shall make any additional corrective payments due, retroactive to the date of the incorrect action.

~~7.16(10)~~ 7.16(11) *Final decision.* The department shall mail the final decision to the appellant at the appellant's last-known address by first-class mail, postage prepaid.

ITEM 3. Amend subrule 7.21(3) as follows:

7.21(3) *Conduct of a food assistance administrative disqualification hearing.* Hearings over disqualification of a household member for an intentional program violation shall be conducted by a presiding officer.

a. The department of inspections and appeals shall serve an Intentional Program Violation Hearing Notice upon the household member ~~both by certified mail, return receipt requested, and by first-class mail, postage prepaid,~~ addressed to household member at the last-known address 30 calendar days before the initial hearing date.

b. and c. No change.

ITEM 4. Amend rule 441—7.46(17A) as follows:

441—7.46(17A) Request for review of the proposed decision. A request for review of the proposed decision shall follow the provisions outlined in subrules 7.16(5) to ~~7.16(7)~~ 7.16(8).

ARC 3659C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to psychiatric bed tracking system
and providing an opportunity for public comment**

The Department of Human Services hereby proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 87.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 87.

Purpose and Summary

This amendment requires hospitals providing inpatient psychiatric services, including the state mental health institutes (MHI), to update the inpatient psychiatric bed tracking system at least two times per day with the number of available, staffed beds by gender, child, adult, and geriatric.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The new subrule requires that hospitals update the bed tracking system twice daily. The Department has already spent the funds to develop the tracking software to be used by these institutions. There are no additional expenses to the State related to this rule making.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 20, 2018. Comments should be directed to:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Harry Rossander
Bureau of Policy Coordination
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319
Fax: 515.281.4980
Email: policyanalysis@dhs.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** subrule 77.3(3):

77.3(3) *Psychiatric bed tracking system.* As a condition of participation in the medical assistance program, hospitals must establish procedures for participating in and updating the statewide psychiatric bed tracking system.

a. Definitions.

“*Adult beds*” means the number of staffed and available psychiatric beds ready for admission to individuals 18 years of age to 60 years of age.

“*Child beds*” means the number of staffed and available psychiatric beds ready for admission to individuals up to the age of 18.

“*Gender*” means female or male.

“*Geriatric beds*” means the number of staffed and available psychiatric beds ready for admission to individuals 60 years of age and older.

“*Hospital,*” for purposes of this subrule, means any licensed hospital providing inpatient psychiatric services and the state mental health institutes.

“*Psychiatric bed tracking system*” means a web-based electronic system managed by the department that can be searched to locate inpatient psychiatric services at an Iowa hospital.

b. Hospitals are required to participate in the psychiatric bed tracking system.

c. Hospitals shall update the psychiatric bed tracking system, at a minimum, two times per day. The first update shall be entered between 12:00:01 a.m. and 9:59:59 a.m. each day; the second update shall be entered between 8:00:00 p.m. and 11:59:59 p.m. each day.

d. Each update must include the number of child beds by gender, the number of adult beds by gender, and the number of geriatric beds by gender.

e. Failure to comply with the psychiatric bed tracking reporting may result in sanctions in accordance with rule 441—79.2(249A).

ARC 3651C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to child care assistance and providing
an opportunity for public comment**

The Department of Human Services hereby proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6 and the federal Child Care and Development Block Grant.

Purpose and Summary

These amendments revise the Child Care Assistance (CCA) fee chart based on the new federal poverty levels (FPL) in accordance with the Child Care and Development Block Grant. These amendments also update rules regarding the temporary-lapse policy and add a wait list exemption for homeless families.

Fiscal Impact

This rule making has a fiscal impact of \$100,000 annually or \$500,000 over five years to the State of Iowa. Detailed assumptions and descriptions about how the estimates were derived may be obtained from the Department upon request.

Jobs Impact

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

Waivers

This rule making does not provide a specific waiver authority because families may request a waiver of these provisions in a specified situation under the Department’s general rule on exceptions at rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 20, 2018. Comments should be directed to:

Harry Rossander
Bureau of Policy Coordination
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319
Fax: 515.281.4980
Email: policyanalysis@dhs.state.ia.us

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Rescind subparagraph **170.2(2)“b”(9)** and adopt the following new subparagraph in lieu thereof:

(9) Family eligibility shall continue during an approved certification period when a temporary lapse in need for service for a parent established under this subparagraph occurs. A temporary lapse is defined as:

1. Any time-limited absence from work or a training or education program for a parent due to:
 - Need to care for a family member.
 - An illness.
 - Maternity leave.
 - Family Medical Leave Act (FMLA) situations for household members.
 - Participation in a treatment/rehabilitation program.
2. Any reduction in employment or education/training hours that fall below the minimum number required at 170.2(2)“b”(1), (2) or (8) as long as the parent continues to work or attend training or education.
3. Any student holiday or break for a parent participating in training or education.
4. Any interruption in work for a seasonal worker who is not working between regular industry work seasons.
5. Any other cessation of work or attendance at a training or education program that does not exceed three months.

ITEM 2. Amend paragraph **170.2(3)“b”** as follows:

b. Exceptions to priority groups. The following are eligible for child care assistance notwithstanding waiting lists for child care services:

- (1) Families with protective child care needs.
- (2) Recipients of the family investment program or those whose earned income was taken into account in determining the needs of family investment program recipients.
- (3) Families that receive a state adoption subsidy for a child.
- (4) Families that are experiencing homelessness.

ITEM 3. Amend subparagraph **170.4(2)“a”(1)** as follows:

(1) The fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, ~~2017~~ 2018:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Level	Monthly Income According to Family Size													Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	11	12	13+	1	2	3 or more
A	\$955	\$1,286	\$1,617	\$1,948	\$2,279	\$2,610	\$2,940	\$3,272	\$3,602	\$3,933	\$4,265	\$4,595	\$4,926	\$0.00	\$0.00	\$0.00
	<u>\$961</u>	<u>\$1,303</u>	<u>\$1,645</u>	<u>\$1,987</u>	<u>\$2,329</u>	<u>\$2,671</u>	<u>\$3,013</u>	<u>\$3,355</u>	<u>\$3,697</u>	<u>\$4,039</u>	<u>\$4,381</u>	<u>\$4,723</u>	<u>\$5,065</u>			
B	\$1,005	\$1,354	\$1,702	\$2,050	\$2,399	\$2,747	\$3,095	\$3,444	\$3,792	\$4,140	\$4,489	\$4,837	\$5,185	\$0.20	\$0.45	\$0.70
	<u>\$1,012</u>	<u>\$1,372</u>	<u>\$1,732</u>	<u>\$2,092</u>	<u>\$2,452</u>	<u>\$2,812</u>	<u>\$3,172</u>	<u>\$3,532</u>	<u>\$3,892</u>	<u>\$4,252</u>	<u>\$4,612</u>	<u>\$4,972</u>	<u>\$5,332</u>			
C	\$1,033	\$1,392	\$1,750	\$2,107	\$2,466	\$2,824	\$3,182	\$3,540	\$3,898	\$4,256	\$4,615	\$4,972	\$5,330	\$0.45	\$0.70	\$0.95
	<u>\$1,040</u>	<u>\$1,410</u>	<u>\$1,780</u>	<u>\$2,151</u>	<u>\$2,521</u>	<u>\$2,891</u>	<u>\$3,261</u>	<u>\$3,631</u>	<u>\$4,001</u>	<u>\$4,371</u>	<u>\$4,741</u>	<u>\$5,111</u>	<u>\$5,481</u>			
D	\$1,061	\$1,430	\$1,797	\$2,165	\$2,533	\$2,901	\$3,268	\$3,637	\$4,004	\$4,372	\$4,740	\$5,108	\$5,475	\$0.70	\$0.95	\$1.20
	<u>\$1,069</u>	<u>\$1,449</u>	<u>\$1,829</u>	<u>\$2,209</u>	<u>\$2,589</u>	<u>\$2,969</u>	<u>\$3,350</u>	<u>\$3,730</u>	<u>\$4,110</u>	<u>\$4,490</u>	<u>\$4,870</u>	<u>\$5,250</u>	<u>\$5,631</u>			
E	\$1,091	\$1,470	\$1,848	\$2,225	\$2,604	\$2,982	\$3,360	\$3,739	\$4,116	\$4,494	\$4,873	\$5,251	\$5,629	\$0.95	\$1.20	\$1.45
	<u>\$1,099</u>	<u>\$1,489</u>	<u>\$1,880</u>	<u>\$2,271</u>	<u>\$2,662</u>	<u>\$3,053</u>	<u>\$3,443</u>	<u>\$3,834</u>	<u>\$4,225</u>	<u>\$4,616</u>	<u>\$5,007</u>	<u>\$5,397</u>	<u>\$5,788</u>			
F	\$1,121	\$1,510	\$1,898	\$2,286	\$2,675	\$3,063	\$3,451	\$3,841	\$4,229	\$4,617	\$5,006	\$5,394	\$5,782	\$1.20	\$1.45	\$1.70
	<u>\$1,129</u>	<u>\$1,530</u>	<u>\$1,931</u>	<u>\$2,333</u>	<u>\$2,734</u>	<u>\$3,136</u>	<u>\$3,537</u>	<u>\$3,939</u>	<u>\$4,340</u>	<u>\$4,742</u>	<u>\$5,143</u>	<u>\$5,544</u>	<u>\$5,946</u>			
G	\$1,152	\$1,552	\$1,951	\$2,350	\$2,750	\$3,149	\$3,548	\$3,948	\$4,347	\$4,746	\$5,146	\$5,545	\$5,944	\$1.45	\$1.70	\$1.95
	<u>\$1,160</u>	<u>\$1,573</u>	<u>\$1,985</u>	<u>\$2,398</u>	<u>\$2,811</u>	<u>\$3,224</u>	<u>\$3,636</u>	<u>\$4,049</u>	<u>\$4,462</u>	<u>\$4,874</u>	<u>\$5,287</u>	<u>\$5,700</u>	<u>\$6,112</u>			
H	\$1,183	\$1,594	\$2,004	\$2,414	\$2,825	\$3,235	\$3,645	\$4,056	\$4,465	\$4,875	\$5,286	\$5,696	\$6,106	\$1.70	\$1.95	\$2.20
	<u>\$1,192</u>	<u>\$1,616</u>	<u>\$2,040</u>	<u>\$2,464</u>	<u>\$2,887</u>	<u>\$3,311</u>	<u>\$3,735</u>	<u>\$4,159</u>	<u>\$4,583</u>	<u>\$5,007</u>	<u>\$5,431</u>	<u>\$5,855</u>	<u>\$6,279</u>			
I	\$1,217	\$1,639	\$2,060	\$2,482	\$2,904	\$3,325	\$3,747	\$4,169	\$4,590	\$5,012	\$5,434	\$5,855	\$6,277	\$1.95	\$2.20	\$2.45
	<u>\$1,225</u>	<u>\$1,661</u>	<u>\$2,097</u>	<u>\$2,532</u>	<u>\$2,968</u>	<u>\$3,404</u>	<u>\$3,840</u>	<u>\$4,276</u>	<u>\$4,711</u>	<u>\$5,147</u>	<u>\$5,583</u>	<u>\$6,019</u>	<u>\$6,455</u>			
J	\$1,250	\$1,684	\$2,116	\$2,549	\$2,983	\$3,416	\$3,849	\$4,283	\$4,715	\$5,148	\$5,582	\$6,015	\$6,448	\$2.20	\$2.45	\$2.70
	<u>\$1,258</u>	<u>\$1,706</u>	<u>\$2,154</u>	<u>\$2,601</u>	<u>\$3,049</u>	<u>\$3,497</u>	<u>\$3,944</u>	<u>\$4,392</u>	<u>\$4,840</u>	<u>\$5,287</u>	<u>\$5,735</u>	<u>\$6,183</u>	<u>\$6,630</u>			
K	\$1,285	\$1,731	\$2,176	\$2,621	\$3,067	\$3,512	\$3,956	\$4,403	\$4,847	\$5,292	\$5,739	\$6,183	\$6,628	\$2.45	\$2.70	\$2.95
	<u>\$1,294</u>	<u>\$1,754</u>	<u>\$2,214</u>	<u>\$2,674</u>	<u>\$3,135</u>	<u>\$3,595</u>	<u>\$4,055</u>	<u>\$4,515</u>	<u>\$4,975</u>	<u>\$5,436</u>	<u>\$5,896</u>	<u>\$6,356</u>	<u>\$6,816</u>			
L	\$1,320	\$1,778	\$2,235	\$2,692	\$3,150	\$3,607	\$4,064	\$4,523	\$4,980	\$5,437	\$5,895	\$6,352	\$6,809	\$2.70	\$2.95	\$3.20
	<u>\$1,329</u>	<u>\$1,802</u>	<u>\$2,274</u>	<u>\$2,747</u>	<u>\$3,220</u>	<u>\$3,693</u>	<u>\$4,165</u>	<u>\$4,638</u>	<u>\$5,111</u>	<u>\$5,584</u>	<u>\$6,056</u>	<u>\$6,529</u>	<u>\$7,002</u>			
M	\$1,357	\$1,828	\$2,298	\$2,767	\$3,238	\$3,708	\$4,178	\$4,649	\$5,119	\$5,589	\$6,060	\$6,530	\$6,999	\$2.95	\$3.20	\$3.45
	<u>\$1,366</u>	<u>\$1,852</u>	<u>\$2,338</u>	<u>\$2,824</u>	<u>\$3,310</u>	<u>\$3,796</u>	<u>\$4,282</u>	<u>\$4,768</u>	<u>\$5,254</u>	<u>\$5,740</u>	<u>\$6,226</u>	<u>\$6,712</u>	<u>\$7,198</u>			
N	\$1,394	\$1,878	\$2,360	\$2,843	\$3,327	\$3,809	\$4,292	\$4,776	\$5,258	\$5,741	\$6,225	\$6,707	\$7,190	\$3.20	\$3.45	\$3.70
	<u>\$1,403</u>	<u>\$1,903</u>	<u>\$2,402</u>	<u>\$2,901</u>	<u>\$3,400</u>	<u>\$3,899</u>	<u>\$4,399</u>	<u>\$4,898</u>	<u>\$5,397</u>	<u>\$5,896</u>	<u>\$6,395</u>	<u>\$6,895</u>	<u>\$7,394</u>			
O	\$1,433	\$1,930	\$2,426	\$2,922	\$3,420	\$3,916	\$4,412	\$4,910	\$5,406	\$5,902	\$6,399	\$6,895	\$7,391	\$3.45	\$3.70	\$3.95
	<u>\$1,443</u>	<u>\$1,956</u>	<u>\$2,469</u>	<u>\$2,982</u>	<u>\$3,495</u>	<u>\$4,009</u>	<u>\$4,522</u>	<u>\$5,035</u>	<u>\$5,548</u>	<u>\$6,061</u>	<u>\$6,575</u>	<u>\$7,088</u>	<u>\$7,601</u>			
P	\$1,472	\$1,983	\$2,492	\$3,002	\$3,513	\$4,023	\$4,532	\$5,043	\$5,553	\$6,062	\$6,574	\$7,083	\$7,593	\$3.70	\$3.95	\$4.20
	<u>\$1,482</u>	<u>\$2,009</u>	<u>\$2,536</u>	<u>\$3,063</u>	<u>\$3,591</u>	<u>\$4,118</u>	<u>\$4,645</u>	<u>\$5,172</u>	<u>\$5,699</u>	<u>\$6,226</u>	<u>\$6,754</u>	<u>\$7,281</u>	<u>\$7,808</u>			

HUMAN SERVICES DEPARTMENT[441](cont'd)

Level	Monthly Income According to Family Size													Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	11	12	13+	1	2	3 or more
Q	<u>\$1,513</u>	<u>\$2,038</u>	<u>\$2,562</u>	<u>\$3,086</u>	<u>\$3,611</u>	<u>\$4,135</u>	<u>\$4,659</u>	<u>\$5,184</u>	<u>\$5,708</u>	<u>\$6,232</u>	<u>\$6,758</u>	<u>\$7,281</u>	<u>\$7,805</u>	\$3.95	\$4.20	\$4.45
	<u>\$1,523</u>	<u>\$2,065</u>	<u>\$2,607</u>	<u>\$3,149</u>	<u>\$3,691</u>	<u>\$4,233</u>	<u>\$4,775</u>	<u>\$5,317</u>	<u>\$5,859</u>	<u>\$6,401</u>	<u>\$6,943</u>	<u>\$7,485</u>	<u>\$8,027</u>			
R	<u>\$1,554</u>	<u>\$2,094</u>	<u>\$2,632</u>	<u>\$3,170</u>	<u>\$3,710</u>	<u>\$4,248</u>	<u>\$4,786</u>	<u>\$5,326</u>	<u>\$5,864</u>	<u>\$6,402</u>	<u>\$6,942</u>	<u>\$7,480</u>	<u>\$8,018</u>	\$4.20	\$4.45	\$4.70
	<u>\$1,565</u>	<u>\$2,122</u>	<u>\$2,678</u>	<u>\$3,235</u>	<u>\$3,792</u>	<u>\$4,348</u>	<u>\$4,905</u>	<u>\$5,462</u>	<u>\$6,018</u>	<u>\$6,575</u>	<u>\$7,132</u>	<u>\$7,689</u>	<u>\$8,245</u>			
S	<u>\$1,598</u>	<u>\$2,152</u>	<u>\$2,706</u>	<u>\$3,259</u>	<u>\$3,814</u>	<u>\$4,367</u>	<u>\$4,920</u>	<u>\$5,475</u>	<u>\$6,028</u>	<u>\$6,581</u>	<u>\$7,136</u>	<u>\$7,689</u>	<u>\$8,242</u>	\$4.45	\$4.70	\$4.95
	<u>\$1,609</u>	<u>\$2,181</u>	<u>\$2,753</u>	<u>\$3,326</u>	<u>\$3,898</u>	<u>\$4,470</u>	<u>\$5,042</u>	<u>\$5,615</u>	<u>\$6,187</u>	<u>\$6,759</u>	<u>\$7,332</u>	<u>\$7,904</u>	<u>\$8,476</u>			
T	<u>\$1,641</u>	<u>\$2,211</u>	<u>\$2,779</u>	<u>\$3,348</u>	<u>\$3,917</u>	<u>\$4,486</u>	<u>\$5,054</u>	<u>\$5,624</u>	<u>\$6,192</u>	<u>\$6,760</u>	<u>\$7,330</u>	<u>\$7,899</u>	<u>\$8,467</u>	\$4.70	\$4.95	\$5.20
	<u>\$1,653</u>	<u>\$2,240</u>	<u>\$2,828</u>	<u>\$3,416</u>	<u>\$4,004</u>	<u>\$4,592</u>	<u>\$5,180</u>	<u>\$5,768</u>	<u>\$6,355</u>	<u>\$6,943</u>	<u>\$7,531</u>	<u>\$8,119</u>	<u>\$8,707</u>			
U	<u>\$1,687</u>	<u>\$2,273</u>	<u>\$2,857</u>	<u>\$3,441</u>	<u>\$4,027</u>	<u>\$4,611</u>	<u>\$5,196</u>	<u>\$5,781</u>	<u>\$6,366</u>	<u>\$6,950</u>	<u>\$7,536</u>	<u>\$8,120</u>	<u>\$8,704</u>	\$4.95	\$5.20	\$5.45
	<u>\$1,699</u>	<u>\$2,303</u>	<u>\$2,907</u>	<u>\$3,512</u>	<u>\$4,116</u>	<u>\$4,720</u>	<u>\$5,325</u>	<u>\$5,929</u>	<u>\$6,533</u>	<u>\$7,138</u>	<u>\$7,742</u>	<u>\$8,346</u>	<u>\$8,951</u>			
V	<u>\$1,733</u>	<u>\$2,335</u>	<u>\$2,935</u>	<u>\$3,535</u>	<u>\$4,137</u>	<u>\$4,737</u>	<u>\$5,337</u>	<u>\$5,939</u>	<u>\$6,539</u>	<u>\$7,139</u>	<u>\$7,741</u>	<u>\$8,341</u>	<u>\$8,941</u>	\$5.20	\$5.45	\$5.70
	<u>\$1,745</u>	<u>\$2,366</u>	<u>\$2,987</u>	<u>\$3,607</u>	<u>\$4,228</u>	<u>\$4,849</u>	<u>\$5,470</u>	<u>\$6,091</u>	<u>\$6,711</u>	<u>\$7,332</u>	<u>\$7,953</u>	<u>\$8,574</u>	<u>\$9,195</u>			
W	<u>\$1,782</u>	<u>\$2,400</u>	<u>\$3,017</u>	<u>\$3,634</u>	<u>\$4,253</u>	<u>\$4,870</u>	<u>\$5,486</u>	<u>\$6,105</u>	<u>\$6,722</u>	<u>\$7,339</u>	<u>\$7,958</u>	<u>\$8,574</u>	<u>\$9,191</u>	\$5.45	\$5.70	\$5.95
	<u>\$1,794</u>	<u>\$2,432</u>	<u>\$3,070</u>	<u>\$3,708</u>	<u>\$4,347</u>	<u>\$4,985</u>	<u>\$5,623</u>	<u>\$6,261</u>	<u>\$6,899</u>	<u>\$7,537</u>	<u>\$8,176</u>	<u>\$8,814</u>	<u>\$9,452</u>			
X	<u>\$1,830</u>	<u>\$2,466</u>	<u>\$3,099</u>	<u>\$3,733</u>	<u>\$4,369</u>	<u>\$5,002</u>	<u>\$5,636</u>	<u>\$6,271</u>	<u>\$6,905</u>	<u>\$7,539</u>	<u>\$8,174</u>	<u>\$8,808</u>	<u>\$9,442</u>	\$5.70	\$5.95	\$6.20
	<u>\$1,843</u>	<u>\$2,498</u>	<u>\$3,154</u>	<u>\$3,809</u>	<u>\$4,465</u>	<u>\$5,121</u>	<u>\$5,776</u>	<u>\$6,432</u>	<u>\$7,087</u>	<u>\$7,743</u>	<u>\$8,398</u>	<u>\$9,054</u>	<u>\$9,709</u>			
Y	<u>\$1,881</u>	<u>\$2,535</u>	<u>\$3,186</u>	<u>\$3,838</u>	<u>\$4,491</u>	<u>\$5,142</u>	<u>\$5,794</u>	<u>\$6,447</u>	<u>\$7,098</u>	<u>\$7,750</u>	<u>\$8,403</u>	<u>\$9,055</u>	<u>\$9,706</u>	\$5.95	\$6.20	\$6.45
	<u>\$1,894</u>	<u>\$2,568</u>	<u>\$3,242</u>	<u>\$3,916</u>	<u>\$4,590</u>	<u>\$5,264</u>	<u>\$5,938</u>	<u>\$6,612</u>	<u>\$7,286</u>	<u>\$7,960</u>	<u>\$8,633</u>	<u>\$9,307</u>	<u>\$9,981</u>			
Z	<u>\$1,933</u>	<u>\$2,604</u>	<u>\$3,273</u>	<u>\$3,942</u>	<u>\$4,613</u>	<u>\$5,282</u>	<u>\$5,952</u>	<u>\$6,623</u>	<u>\$7,292</u>	<u>\$7,961</u>	<u>\$8,632</u>	<u>\$9,301</u>	<u>\$9,970</u>	\$6.20	\$6.45	\$6.70
	<u>\$1,946</u>	<u>\$2,638</u>	<u>\$3,331</u>	<u>\$4,023</u>	<u>\$4,715</u>	<u>\$5,407</u>	<u>\$6,100</u>	<u>\$6,792</u>	<u>\$7,484</u>	<u>\$8,176</u>	<u>\$8,869</u>	<u>\$9,561</u>	<u>\$10,253</u>			
AA	<u>\$1,987</u>	<u>\$2,677</u>	<u>\$3,364</u>	<u>\$4,052</u>	<u>\$4,742</u>	<u>\$5,430</u>	<u>\$6,118</u>	<u>\$6,808</u>	<u>\$7,496</u>	<u>\$8,184</u>	<u>\$8,874</u>	<u>\$9,562</u>	<u>\$10,250</u>	\$6.45	\$6.70	\$6.95
	<u>\$2,001</u>	<u>\$2,712</u>	<u>\$3,424</u>	<u>\$4,135</u>	<u>\$4,847</u>	<u>\$5,559</u>	<u>\$6,270</u>	<u>\$6,982</u>	<u>\$7,694</u>	<u>\$8,405</u>	<u>\$9,117</u>	<u>\$9,829</u>	<u>\$10,540</u>			
BB	\$4,000	\$5,000	\$6,000	\$7,000	\$8,000	\$9,000	\$9,000	\$9,000	\$9,000	\$9,500	\$10,000	\$10,500	\$11,500	\$6.70	\$6.95	\$7.20

ARC 3650C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to targeted small business certification duties and technical changes
and providing an opportunity for public comment**

The Department of Inspections and Appeals hereby proposes to amend Chapter 1, “Administration,” to rescind Chapter 25, “Iowa Targeted Small Business Certification Program,” and to amend Chapter 30, “Food and Consumer Safety,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 10A.104(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104(5) and 22.11 and 2017 Iowa Acts, chapter 160 (House File 621).

Purpose and Summary

This proposed rule making implements changes made in 2017 Iowa Acts, chapter 160 (House File 621), which transfers responsibility for the certification of targeted small businesses from the Department of Inspections and Appeals to the Iowa Economic Development Authority. The Iowa Economic Development Authority’s administrative rules, which can be found in 261—Chapter 52, are related to the certification of targeted small business and became effective February 21, 2018. As a result, Chapter 25 of the Department’s rules is being rescinded. This rule making also eliminates other references to the targeted small business certification program found in Chapters 1 and 30.

Additionally, two other technical changes are proposed in this rule making. A reference to home food establishments is changed to home bakeries, which is consistent with changes made by the Iowa General Assembly in 2016, and an outdated reference to the inspection of egg handlers is removed as this function was transferred to the Iowa Department of Agriculture and Land Stewardship by the Iowa General Assembly during the 2011 session.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. These amendments are technical in nature and remove obsolete references.

Jobs Impact

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

Waivers

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

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

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 20, 2018. Comments should be directed to:

Director
Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0083
Fax: 515.242.6863
Email: david.werning@dia.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 481—1.3(10A) as follows:

481—1.3(10A) Administration division. This division provides administrative support to the department, including fiscal, policy and planning, information technology, and public information. This division negotiates and provides oversight for compacts entered into between the state of Iowa and Indian tribes located in the state. ~~The division certifies targeted small businesses.~~ The division also inspects and licenses the following entities:

1. Social and charitable gambling pursuant to Iowa Code chapter 99B;
2. Food establishments, including but not limited to restaurants, vending establishments, and mobile food units;
3. ~~Hotels, home food establishments, and egg handlers~~ and home bakeries;
4. Inspections for sanitation in any locality of the state upon written petition of five or more residents of the locality.

ITEM 2. Rescind and reserve **481—Chapter 25.**

ITEM 3. Amend rule 481—30.1(10A,137C,137D,137F), introductory paragraph, as follows:

481—30.1(10A,137C,137D,137F) Food and consumer safety bureau. The food and consumer safety bureau inspects food establishments and food processing plants including food storage facilities (warehouses), home bakeries, food and beverage vending machines, and hotels and motels. The food and consumer safety bureau is also responsible for social and charitable gambling and amusement devices. Separate chapters have been established for the administration of ~~targeted small business~~

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

~~certification (481—Chapter 25),~~ social and charitable gambling (481—Chapters 100 to 103, 106, and 107), and amusement devices (481—Chapters 104 and 105).

ARC 3649C**INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action****Proposing rule making related to the investigations division and providing an opportunity for public comment**

The Department of Inspections and Appeals hereby proposes to amend Chapter 1, “Administration,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 10A.104(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.401 to 10A.403.

Purpose and Summary

In Chapter 1, the rule for the administration of the Department’s Investigations Division is being updated to reflect the current structure of the Division. The amendment is the result of a review of all administrative rules related to the Investigations Division.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 20, 2018. Comments should be directed to:

Director
Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0083
Fax: 515.242.6863
Email: david.werning@dia.iowa.gov

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind rule 481—1.4(10A) and adopt the following **new** rule in lieu thereof:

481—1.4(10A) Investigations division. The investigations division of the department conducts criminal, civil, and administrative investigations of fraud and misconduct. The division also conducts audits of health care facilities. Staff within the division work closely with federal, state, and local partners in identifying fraud, waste, and abuse and, where appropriate, presenting cases for criminal prosecution.

1.4(1) Units of the division. The division is comprised of the following units.

a. Abuse coordinating unit. The abuse coordinating unit assists with the detection, investigation and prosecution of civil, administrative dependent adult abuse allegations in health care facilities.

b. Audit unit. The audit unit audits health care facilities to review and verify facility resident billing and personal allowance accounts and to determine whether state billings accurately reflect the health care facility census. The unit audits local department of human services offices to review and verify whether administrative expense claims and official receipts are in accordance with the criteria set forth in 2 CFR Part 200 and state law.

c. Economic fraud control bureau (EFCB). The economic fraud control bureau is comprised of two units.

(1) Program integrity/electronic benefit transfer (EBT) unit. This unit investigates recipient public assistance fraud and food assistance trafficking. Division staff investigate suspected fraud and assist the department of human services to determine eligibility for public assistance. Division staff may conduct investigations relative to the administration of any other state or federal benefit assistance program. Division staff may also conduct investigations relative to the internal affairs and operations of agencies and departments within the executive branch of state government, except for institutions governed by the state board of regents.

(2) Divestiture unit. This unit investigates the transfer or assignment of a legal or equitable interest in property from a Medicaid recipient transferor to a transferee for less than fair consideration. The department may establish a debt against the transferee, due and owing to the department of human services, in an amount equal to the medical assistance provided, but not in excess of the fair consideration value of the assets transferred.

d. Medicaid fraud control unit (MFCU). The Medicaid fraud control unit investigates allegations of fraud committed by providers against the Medicaid program as well as fraud in the administration of the Medicaid program. MFCU also investigates abuse, neglect or other crimes committed upon residents in care facilities or related programs that receive funding from the Medicaid program.

e. Professional standards unit. The professional standards unit investigates licensed professionals for the professional licensure division of the department of public health. Licensing boards may refer professional practice inquiries to the unit for investigation. This unit does not conduct investigations on behalf of the board of medicine, the board of pharmacy, the dental board, or the board of nursing.

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

f. Public assistance debt recovery unit (PADRU). The public assistance debt recovery unit investigates and initiates collections of overpayment debts owed to the department of human services.

1.4(2) Peace officer status. Pursuant to Iowa Code section 10A.403, investigators assigned to the division shall have the powers and authority of peace officers when acting within the scope of their responsibilities to conduct investigations as specified in Iowa Code section 10A.402(5). An investigator shall not carry a weapon to perform responsibilities as described in this subrule.

This rule is intended to implement Iowa Code sections 10A.401 to 10A.403.

ARC 3653C**LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]****Notice of Intended Action****Proposing rule making related to continuing education requirements
and providing an opportunity for public comment**

The Landscape Architectural Examining Board hereby proposes to amend Chapter 3, “Continuing Education,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 544B.5 and 546.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.7, 272C.2 and 544B.5.

Purpose and Summary

The proposed amendments are a result of the five-year rolling review of administrative rules as outlined in Iowa Code section 17A.7(2). A committee of the Board, including Board members and staff, with the assistance of legal counsel, reviewed Chapter 3 to identify outdated or redundant references, inconsistencies with statutes, and methods of enhancing efficiencies. The amendments update citations and make general updates.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on March 20, 2018. Comments should be directed to:

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

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

Public Hearing

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

March 20, 2018	Board Office, Suite 350
9 to 9:30 a.m.	200 East Grand Avenue
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 193D—3.1(544B,17A) as follows:

193D—3.1(544B,17A) Definitions. As used in these rules, the following definitions shall apply:

“Distance learning” means any education process based on the geographical separation of student and instructor. “Distance learning” includes computer-generated programs, webinars, and home-study/correspondence programs.

“Health, safety, and welfare subjects” means technical and professional subjects that the board deems appropriate to safeguard directly the public’s health, safety, and welfare. Such subjects include design, environmental systems, site design, land use analyses, landscape architecture programming, grading and drainage, storm water management, erosion control, site and soil analyses, accessibility, building codes, review of state registration laws including the rules of professional conduct, evaluation and selection of products and materials, cost analysis, construction methods, contract documentation, construction contract administration, construction administration, construction-phase office procedures, project management, and the like.

“Hours of continuing education” of continuing education means a contact hour spent in either structured educational activities or individually planned activities intended to increase the professional landscape architect’s knowledge and competence in public protection subjects and related practice subjects. “Contact hour” is defined as the typical 50-minute classroom instructional session or its equivalent. One continuing education unit (CEU) offered by an accredited sponsor shall be considered equivalent to ten contact hours of continuing education.

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

~~“Individually planned education” means educational activities in which the professional landscape architect personally addresses public protection subjects or related practice subjects which are not systematically presented by others, including reading or writing articles on such subjects; studying or researching landscape architecture, designs or building types; rendering services to the public; advancing the profession’s and public’s understanding of the practice of landscape architecture; and the like.~~

“Structured educational activities” means educational activities in which the teaching methodology consists primarily of systematic presentation of public protection subjects or related practice subjects by qualified individuals or organizations including monographs, courses of study taught in person or by correspondence, organized lectures, presentations or workshops, and other means through which identifiable technical and professional subjects are presented in a planned manner.

ITEM 2. Amend rule 193D—3.2(544B,17A) as follows:

193D—3.2(544B,17A) Continuing education requirements. In order for professional landscape architects to provide competent, professional services to the public, continuing education shall consist of learning experiences that enhance, expand and keep current the skills, knowledge, and abilities of practicing professionals. Professional landscape architects may pursue learning experiences in technical, nontechnical, regulatory, ethics and business practice areas, provided that the continuing education directly benefits the health, safety, ~~or~~ and welfare of the public.

3.2(1) Hours required. Each registrant shall complete during each two-year licensing term a minimum of 24 hours of continuing education approved by the board. Compliance with the continuing education requirements is a prerequisite for license renewal.

3.2(2) Within any biennial renewal period, ~~24 contact hours of continuing education~~ must be acquired and shall be in health, safety, and welfare subjects acquired in ~~structural~~ structured educational activities. ~~The hours earned in self-study activities shall be limited to 6 hours during any renewal period.~~ Hours acquired in any 24-month renewal period may not be carried over to a subsequent 24-month renewal period. Continuing education hours may be acquired in any location.

3.2(3) A professional landscape architect who holds a license in Iowa for less than 12 months from the date of initial licensure shall not be required to report continuing education at the first license renewal. A professional landscape architect who holds a license in Iowa for more than 12 months, but less than 24 months from the date of initial licensure, shall be required to report ~~12 contact hours of continuing education~~ 12 hours of continuing education in health, safety, and welfare subjects earned in the preceding 12 months at the first license renewal.

3.2(4) Sources of continuing education. The following suggested list may be used by all licensees to determine the types of activities which may fulfill the continuing education requirements. All hours of continuing education must also comply with the directive in subrule 3.2(2).

~~a. Contact hours~~ Hours of continuing education in attendance at short courses or seminars dealing with landscape architectural subjects and sponsored by colleges, universities or professional organizations.

~~b. Contact hours~~ Hours of continuing education in attendance at presentations on landscape architectural subjects, which are held in conjunction with conventions or at seminars related to materials use and function. Presentations such as those presented by ~~the Council of Landscape Architecture Registration Boards (CLARB)~~ CLARB, American Society of Landscape Architects, Construction Specification Institute, Construction Products Manufacturers Council or similar organizations devoted to landscape architecture education may qualify.

~~c. Contact hours~~ Hours of continuing education in attendance at short courses or seminars relating to business practice or new technology and offered by colleges, universities, professional organizations or system suppliers.

~~d. Presenting~~ Hours of continuing education spent presenting or teaching courses or seminars in landscape architecture. Three preparation hours may be claimed for each class hour spent teaching landscape architectural courses or seminars. College or university faculty members may not claim credit for teaching regular curriculum courses.

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

e. ~~Contact hours~~ Hours of continuing education spent in learning through professional service to the public which draws upon the licensee's professional expertise on boards and commissions, such as serving on planning commissions, building code advisory boards, urban renewal boards, or code study commissions or community boards. Hours of continuing education under this paragraph shall be limited to 6 hours earned in any biennial renewal period.

f. ~~Contact hours~~ Hours of continuing education spent in landscape architectural research which is published or formally presented to the profession or public. Credit may be claimed only following proof of publication or presentation. Hours of continuing education under this paragraph shall be limited to 12 hours earned in any biennial renewal period.

g. ~~Contact hours~~ Hours of continuing education spent in landscape architectural self-study courses presented in written format or via the Internet, television, video, or audio, such as those sponsored by the American Society of Landscape Architects, CLARB, or similar organizations. Courses must conclude distance learning that concludes with an examination or other verification of course completion. Self-study hours shall be limited to 6 hours earned in any biennial renewal period, effective for renewals that are due on June 30, 2008.

h. College or university courses dealing with landscape architectural subjects or business practice. Each semester hour shall equal 15 contact hours of continuing education. A quarter hour shall equal 10 contact hours of continuing education.

i. ~~Contact hours~~ Hours of continuing education spent in educational tours or tours in areas significant in to landscape architecture when the tour is sponsored by college, university or professional organizations and verification of participation is provided by the tour sponsor. Self-guided tours do not qualify. Hours of continuing education under this paragraph shall be limited to 6 hours earned in any biennial renewal period.

j. ~~Contact hours~~ Hours of continuing education spent attending in-house educational programs, including dinner, luncheon, and breakfast meetings.

3.2(5) Financing. It is the responsibility of each licensee to finance the costs for continuing education.

ITEM 3. Amend rule 193D—3.3(544B,17A) as follows:

193D—3.3(544B,17A) Reporting and evidence Compliance.

3.3(1) Each professional landscape architect shall file with the board a signed report, under penalty of perjury, on forms provided by the board or by ~~on-line~~ online renewal, setting forth the continuing education activities in which the professional landscape architect has participated. The report shall be filed with the renewal application for each two-year renewal period in which the claimed hours of continuing education ~~hours~~ were completed. The information in the report shall include:

- a.* School, firm or organization conducting the course.
- b.* Location of the course.
- c.* Title of the course and description of the content.
- d.* Principal instructor(s).
- e.* Dates attended.
- f.* Hours claimed.

g. In instances of service on a professional or community board, or other undocumented hours of continuing education, the licensee shall provide a narrative description of the materials the licensee reviewed, the nature of the licensee's service, and a description as to how the licensee's claimed hours of continuing education have contributed to the health, safety and welfare of the public.

This information shall be kept by the licensee for reported hours of continuing education for two years.

3.3(2) A professional landscape architect's continuing education report forms or ~~on-line~~ online renewal may be selected for review by the board for verification of compliance with these requirements. Evidence of compliance shall be maintained by the professional landscape architect for two years after the period for which the form was submitted and shall include written verification of attendance by someone other than the licensee. Examples of evidence may include, but are not limited to, a certificate

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

of completion presented by the program sponsor, a letter from an employer verifying attendance at an in-firm training session, or copies of minutes from public service meetings. Canceled checks or receipts for payments of fees to attend a program are not evidence of actual attendance and are not acceptable.

3.3(3) If the board disallows or finds incomplete/unsatisfactory any hours of continuing education ~~hours~~, unless the board finds, following notice and hearing, that the professional landscape architect willfully disregarded continuing education requirements, then the professional landscape architect shall have ~~six months~~ 60 days from notice of such disallowance to make up the deficiency by acquiring the required number of ~~contact~~ hours of continuing education. Such hours shall not again be used for the next renewal.

ARC 3660C**NURSING BOARD[655]****Notice of Intended Action****Proposing rule making related to supervision by licensed practical nurses and providing an opportunity for public comment**

The Board of Nursing hereby proposes to amend Chapter 6, "Nursing Practice for Registered Nurses/Licensed Practical Nurses," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 152.

Purpose and Summary

The following list is a summary of the proposed changes to subrule 6.5(1). The amendments, which pertain to the role and responsibility of the licensed practical nurse (LPN) in a supervisory capacity:

- Clarify the supervisory role of the LPN in an acute care setting.
- Streamline the requirements for and process of completing the National Healthcare Institute's supervisory course for LPNs within 90 days of employment in a supervisory role.
- Clarify the process for LPNs who are currently enrolled as full-time students in a registered nurse program.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

NURSING BOARD[655](cont'd)

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 of Nursing no later than 4:30 p.m. on March 20, 2018. Comments should be directed to:

Kathy Weinberg
Iowa Board of Nursing
400 S.W. 8th Street, Suite B
Des Moines, Iowa 50309
Email: rules.comments@iowa.org

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 6.5(1) as follows:

6.5(1) A licensed practical nurse shall be permitted to supervise unlicensed assistive personnel under the provisions of Iowa Code section ~~152.1(4)“b.”~~ 152.1(5)“b.”

a. No change.

b. Supervision shall be in accordance with the following:

(1) A licensed practical nurse working under the supervision of a registered nurse shall be permitted to supervise in an intermediate care facility for ~~the mentally retarded~~ persons with an intellectual disability or in a residential health care setting.

(2) A licensed practical nurse working under the supervision of a registered nurse may direct the activities of other licensed practical nurses and unlicensed assistive personnel in an acute care setting in giving care to individuals assigned to the licensed practical nurse. The registered nurse must be in the proximate area.

(2) (3) A licensed practical nurse working under the supervision of a registered nurse ~~shall be permitted to~~ may supervise in a nursing facility ~~if the licensed practical nurse completes the National Healthcare Institute’s Supervisory Course for Iowa’s Licensed Practical Nurses within 90 days of employment in a supervisory role. Documentation of the completion of the course shall be maintained by the licensed practical nurse. A licensed practical nurse shall be entitled to supervise without completing the course if the licensed practical nurse was performing in a supervisory role on or before October 6, 1982. A licensed practical nurse who is currently enrolled as a full-time student in a registered nurse program and is scheduled to graduate within one year is not required to complete the course. If the licensed practical nurse does not obtain a registered nurse license within one year, the licensed practical nurse must take the course to continue supervisory duties.~~

~~The licensed practical nurse shall be required to complete a curriculum which has been approved by the board and designed specifically for the supervision role of the licensed practical nurse in a~~

NURSING BOARD[655](cont'd)

~~nursing facility. The course must be presented by a board-approved nursing program or an approved provider of continuing education. Documentation of the completion of the curriculum as outlined in this subparagraph shall be maintained by the licensed practical nurse.~~

~~(3) A licensed practical nurse shall be entitled to supervise without the educational requirement outlined in subparagraph 6.5(1)“b”(2) if the licensed practical nurse was performing in a supervisory role on or before October 6, 1982. The licensed practical nurse being employed in a supervisory role after the enactment of these rules shall complete the curriculum outlined in subparagraph 6.5(1)“b”(2) within six months of employment.~~

~~(4) A licensed practical nurse working under the supervision of a registered nurse may direct the activities of other licensed practical nurses and unlicensed assistive personnel in an acute care setting in giving care to individuals assigned to the licensed practical nurse. The registered nurse must be in the proximate area.~~

ARC 3656C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to electrician and electrical contractor license requirements and providing an opportunity for public comment

The Electrical Examining Board hereby proposes to amend Chapter 502, “Electrician and Electrical Contractor Licensing Program—Licensing Requirements, Procedures, and Fees,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 103.6(1)“a.”

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 105.18(3)“d.”

Purpose and Summary

2015 Iowa Acts, House File 536, section 38, amended Iowa Code chapter 105, specifically, Iowa Code section 105.18(3)“d,” relating to the license requirements for persons who work on air conditioning and refrigeration systems. The legislation clarified that a person who holds either a master or journeyman mechanical license or a master or journeyman HVAC-refrigeration license is exempted from having to obtain a special electrician’s license pursuant to Iowa Code chapter 103 in order to perform the disconnection and reconnection of existing air conditioning and refrigeration systems. The proposed amendment to Chapter 502 incorporates this statutory correction.

Fiscal Impact

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

Jobs Impact

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Board does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—501.5(103).

PUBLIC SAFETY DEPARTMENT[661](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 Board no later than 4:30 p.m. on March 20, 2018. Comments should be directed to:

Barb Edmondson
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6188
Email: edmondso@dps.state.ia.us

Public Hearing

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

March 20, 2018	First Floor Public Conference Room 125
10 a.m.	Oran Pape State Office Building
	215 East 7th Street
	Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 502.2(9) as follows:

502.2(9) A special electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who is not disqualified from holding a license pursuant to rule 661—502.4(103), and who meets the qualifications for any endorsement entered on the license. Each special electrician license shall carry one or more endorsements as specified in paragraphs “a” through “d.”

a. No change.

b. Endorsement 2, “Disconnecting and Reconnecting Existing Air Conditioning and Refrigeration Systems,” shall be included on a special electrician license if the licensee requests it and has passed a supervised examination approved by the board or has completed two years of documented experience in the disconnecting and reconnecting of existing air conditioning and refrigeration systems.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

NOTE: An individual who holds any of the following licenses issued by the plumbing and mechanical systems board established pursuant to Iowa Code section 105.3 is not required to hold a license issued by the electrical examining board in order to perform disconnection and reconnection of existing air conditioning and refrigeration systems:

1. Master HVAC refrigeration.
 2. Journeyperson HVAC refrigeration.
 3. Master ~~refrigeration~~ mechanical.
 4. Journeyperson ~~refrigeration~~ mechanical.
- c. and d. No change.

ARC 3657C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to first-time homebuyer savings account and providing an opportunity for public comment

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14 and 541B.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 541B and section 422.7.

Purpose and Summary

The proposed rule is necessary to implement and administer the Iowa First-Time Homebuyer Savings Account Act, as enacted in 2017 Iowa Acts, chapter 116 (Senate File 505). The rule sets forth details to provide clarity and guidance both to participants in the program and entities involved in its processes.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The fiscal note for the legislation enacting this program estimates revenue reductions for the General Fund of \$0.2 million in fiscal year (FY) 2019, \$0.7 million in FY 2020, \$1.3 million in FY 2021, \$1.9 million in FY 2022, and \$2.0 million in FY 2023 and FY 2024.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 20, 2018. Comments should be directed to:

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Tim Reilly
Department of Revenue
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50306
Email: tim.reilly@iowa.gov
Phone: 515.725.2294

Persons who want to convey their views orally should contact Legal Services, Department of Revenue, at 515.725.2294 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** rule 701—40.82(422,541B):

701—40.82(422,541B) First-time homebuyer savings accounts.

40.82(1) Definitions. Definitions that apply to the first-time homebuyer savings account program may be found in Iowa Code section 541B.2.

40.82(2) Establishing an account.*a. Account holders.*

- (1) A first-time homebuyer savings account holder must be an individual or married couple.
- (2) Any individual may establish a first-time homebuyer savings account by opening an account that meets the requirements provided in this rule.
- (3) A married couple who files a joint Iowa income tax return may establish a joint first-time homebuyer savings account by opening a joint savings account that meets the requirements provided in this rule. Married couples who file separately or separately on a combined return for Iowa income tax purposes may not establish a joint first-time homebuyer savings account.
- (4) There is no limit on the number of first-time homebuyer savings accounts that any account holder may open. However, account holders are subject to other restrictions under the Iowa Code and these rules, including but not limited to the annual contribution limits and aggregate lifetime limits in paragraph 40.82(4)“c.”

(5) No account holder may open or hold more than one account for the same designated beneficiary.

(6) The account holder may change the designated beneficiary of the account at any time.

b. Beneficiaries.

(1) In order to be a designated beneficiary of a first-time homebuyer savings account, an individual must:

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1. Be a resident of Iowa, as defined in Iowa Code section 422.4,
2. Not own, either individually or jointly, any single-family or multifamily residence, and
3. Not have owned or purchased, individually or jointly, any single-family or multifamily residence at any time in the three years immediately prior to both:
 - The date on which the individual is designated the beneficiary of a first-time homebuyer savings account, and
 - The date of the qualified home purchase for which the eligible home costs are paid or reimbursed from the first-time homebuyer savings account.

(2) The designated beneficiary may also be the account holder.

(3) Each account shall have only one designated beneficiary.

(4) The account holder must designate a beneficiary, on forms provided by the department, by April 30 of the year immediately following the tax year in which the account holder opened the account.

c. *Account requirements.* To qualify as a first-time homebuyer savings account, the account must be:

(1) An interest-bearing savings account meeting the qualifications for a “savings deposit” under 12 CFR 204.2(d),

(2) At a state or federally chartered bank, savings and loan association, credit union, or trust company in Iowa, and

(3) Used exclusively as a first-time homebuyer savings account, in compliance with the requirements of this rule.

40.82(3) Maintaining the account.

a. *Contributing to the account.*

(1) Any person may make cash contributions to a first-time homebuyer savings account. Cash contributions may be made by people other than the account holder or the beneficiary. However, only the account holder may claim a deduction for contributing to a first-time homebuyer savings account, as described in subrule 40.82(4).

(2) There is no limit on the amount of contributions that may be made to or retained in a first-time homebuyer savings account. However, there are restrictions on the amounts that can be deducted for Iowa income tax purposes, as described in subrule 40.82(4).

b. *Documenting transactions.*

(1) Annual reports. For each tax year beginning with the tax year in which the first-time homebuyer savings account is established, the account holder must submit a report to the department showing all account activity during the tax year. The report shall be included with the taxpayer’s Iowa individual income tax return and must show the account number of, all deposits into, and withdrawals from, the first-time homebuyer savings account, along with any other information required by the forms provided by the department.

(2) Withdrawal reports. All withdrawals must be reported, on forms provided by the department, within 90 days of the date of the withdrawal. Account holders must report both withdrawals for eligible home costs and any nonqualifying withdrawals. Any withdrawal that appears on the annual report but that is not properly reported at the time it is made shall be deemed to be a nonqualifying withdrawal that must be added back on the account holder’s Iowa income tax return for the tax year in which the withdrawal was made.

(3) Account fees. Fees and charges for the maintenance of the account that are deducted from the account by the financial institution in which the first-time homebuyer savings account is held shall not be considered withdrawals for the purposes of the reporting requirements described in paragraph 40.82(3) “b.”

c. *Nonqualifying withdrawals.* Funds may be withdrawn from a first-time homebuyer savings account at any time. However, once any nonqualifying withdrawal, as defined in subparagraph 40.82(5) “a”(2), is made, the account holder may no longer claim the Iowa income tax benefits related to the first-time homebuyer savings account described in subrule 40.82(4). Furthermore, any nonqualifying withdrawal shall also result in an addition to income and penalty as described in subrule 40.82(5).

REVENUE DEPARTMENT[701](cont'd)

d. Ten-year limitation. An account shall not remain designated a first-time homebuyer savings account for more than ten years, beginning with the year in which the account was first opened. Any funds remaining in the account on January 1 of the tenth calendar year following the year in which the account holder first opened the account shall be deemed immediately withdrawn and may be subject to Iowa income taxes and penalties as described in subrule 80.42(5). The account holder has no obligation to close the account, but as of January 1 of the tenth calendar year after the year in which the account was opened, the account will no longer be a first-time homebuyer savings account entitled to the Iowa income tax benefits described in this rule. A change in the designated beneficiary of the account does not extend the ten-year period in which the account holder may maintain a first-time homebuyer savings account; the period still runs from the year the account was first opened.

e. Exclusively first-time homebuyer account. For an account to qualify as a first-time homebuyer savings account, the account holder shall use the account exclusively as a first-time homebuyer savings account consistent with these rules.

40.82(4) Deductions.

a. Deduction for contributions. Any funds contributed to the first-time homebuyer savings account by the account holder during the tax year may be deducted from the account holder's net income on the account holder's Iowa individual income tax return for that year, subject to the limitations described in paragraph 40.82(4) "c." Although anyone may contribute funds to the first-time homebuyer savings account, only the account holder may claim the deduction, and the deduction may be claimed only for amounts the account holder personally contributed.

b. Deduction for interest. To the extent that any interest earned on the funds in a first-time homebuyer savings account is included in the account holder's Iowa income for a tax year, the amount of that interest may be deducted from the account holder's net income on the account holder's Iowa individual income tax return for that tax year, subject to the lifetime limitation described in subparagraph 40.82(4) "c"(2).

c. Limitations.

(1) Annual limitation. The deduction described in paragraph 40.82(4) "a" is subject to the limitations described in paragraphs "1" and "2" below. These limitations apply to the total contributions that the account holder makes to all first-time homebuyer savings accounts owned by the account holder:

1. Joint first-time homebuyer savings account holders. For married couples who are joint first-time homebuyer savings account holders, the deduction is limited to \$4,000 per year, adjusted annually for inflation.

2. For all other taxpayers who are first-time homebuyer savings account holders, the deduction is limited to \$2,000 per year, adjusted annually for inflation.

(2) Lifetime limitation. Account holders are subject to an aggregate lifetime limit on the deductions described in paragraphs 40.82(4) "a" and "b." No account holder may take total deductions under this program in excess of the lifetime limitation in place for the tax year in which the account holder first opens a first-time homebuyer savings account. The applicable lifetime limit imposed upon taxpayers opening an account in a given year is calculated annually by multiplying the annual limit in effect for that year by 10.

(3) Annual publication of limitations. Each year, the department shall publish the annual contribution limit as indexed for inflation and the lifetime limit applicable to account holders who open accounts during that year.

40.82(5) Additions to income.*a. Nonqualifying withdrawals.*

(1) Addition to income. If there is any nonqualifying withdrawal, as defined in subparagraph 40.82(5) "a"(2), during the tax year, the account holder must add to the account holder's Iowa net income for that year the full amount of the nonqualifying withdrawal, to the extent such income was previously deducted under paragraph 40.82(4) "a." Any nonqualifying withdrawal also makes the account holder ineligible to claim any further deductions described in subrule 40.82(4) in any future tax year.

(2) Nonqualifying withdrawal defined.

REVENUE DEPARTMENT[701](cont'd)

1. Any withdrawal from a first-time homebuyer savings account for any purpose other than the payment or reimbursement of the designated beneficiary's eligible home costs in connection with a qualified home purchase is a nonqualifying withdrawal. A nonqualifying withdrawal includes but is not limited to a withdrawal caused by the death of the account holder and withdrawal made pursuant to garnishment, levy, bankruptcy order, or any other order. If a nonqualifying withdrawal occurs, the account holder cannot cure the nonqualifying withdrawal by returning funds to the account.

2. A withdrawal shall be presumed to be a nonqualifying withdrawal unless:

- Ownership of the qualifying home which the funds from the account are used to purchase passes to the designated beneficiary within 30 days of the date the funds are withdrawn, and
- The designated beneficiary actually occupies the home as the designated beneficiary's primary residence within 90 days of the date the funds are withdrawn.

3. Notwithstanding subparagraph 40.82(5) "a"(2), any amount transferred between different first-time homebuyer savings accounts of the same account holder by a person other than the account holder shall not be considered a nonqualifying withdrawal.

b. Unused funds. Any amount remaining in a first-time homebuyer savings account on January 1 of the tenth calendar year after the calendar year in which the account holder first opened any first-time homebuyer savings account shall be considered immediately withdrawn. This remaining amount shall be subject to the add-back described in paragraph 40.82(5) "a."

c. Penalties. For any amount considered a withdrawal required to be added to net income pursuant to this subrule, the account holder shall be assessed a penalty equal to 10 percent of the amount of the withdrawal. The penalty shall not apply to withdrawals made by reason of the death of the account holder or to withdrawals made pursuant to a garnishment, levy, or other order, including but not limited to an order in bankruptcy following a filing for protection under the federal Bankruptcy Code, 11 U.S.C. §101 et seq.

d. Examples.

EXAMPLE 1: Taxpayer eligible for the deduction; no addition to income or penalty from nonqualifying withdrawal. A is an individual. In 2018, A creates a new interest-bearing savings account with a financial institution. In 2018, A submits a form to the department designating the account as a first-time homebuyer savings account and designating Z, an Iowa resident who has never owned a home, as the beneficiary of the account. In tax year 2018, A contributes \$1,000 to the first-time homebuyer savings account. A contributes \$1,000 per year to the first-time homebuyer savings account during tax years 2019, 2020, and 2021. Every year, A timely submits the required annual reports and all accompanying information. In 2021, after A contributed \$1,000 to the first-time homebuyer savings account, Z made a qualified home purchase. A withdrew the entire balance of the first-time homebuyer savings account and applied the amount to eligible home costs. Within 90 days of withdrawing the funds, A submitted the required withdrawal report and the necessary supporting documentation to the department.

Result: A is allowed to deduct from net income the amount of the contributions generated from the first-time homebuyer account, since the yearly contributions are below the annual limits. A is allowed to deduct \$1,000 each year from A's 2018, 2019, 2020, and 2021 net income. Additionally, A is allowed to deduct income from interest generated from the account each year. A does not have any addition to net income or any penalties associated with the withdrawal or usage of the funds.

EXAMPLE 2: Nonqualifying withdrawal of entire account due to voluntary withdrawal by A. Assume the same facts as Example 1. However, rather than making a qualified withdrawal, in 2021, A withdraws the entire balance of the first-time homebuyer savings account and pays for Z's college tuition.

Result: The withdrawal is a nonqualified withdrawal. Any withdrawal that is not for eligible home costs is a nonqualified withdrawal. A's nonqualified withdrawal has three results. First, the amount of the nonqualified withdrawal is added back to the account holder's net income for the tax year in which the nonqualified withdrawal occurred. In this example, A's 2021 net income would increase by the amount of the contributions that A previously deducted. (See Iowa Code section 422.7(41) "c"(1).) Second, A will be assessed a penalty equal to 10 percent of the total contributions that A previously deducted. (See Iowa Code section 422.7(41) "d.") Third, A will no longer be able to claim the first-time

REVENUE DEPARTMENT[701](cont'd)

homebuyer deduction in any future tax years. (See Iowa Code section 422.7(41) “b”(2)(b).) A is barred from claiming the first-time homebuyer in the future, even if A attempts to open a first-time homebuyer account for a different beneficiary in a different tax year.

EXAMPLE 3: Nonqualifying withdrawal of entire account by legal process. Assume the same facts as Example 1. However, rather than a qualifying withdrawal occurring, in 2021, a creditor levies the entire balance of the first-time homebuyer account in order to satisfy A’s debt to the creditor.

Result: The levy is a nonqualified withdrawal. Any withdrawal, including a withdrawal that is caused by a legal process not initiated by A, that is not for a qualified home purchase is a nonqualified withdrawal. Example 3 has the same result as Example 2, except in Example 3, A does not incur a 10 percent penalty because the withdrawal was due to a levy. (See Iowa Code section 422.7(41) “d.”)

EXAMPLE 4: Nonqualifying withdrawal of a partial balance of a first-time homebuyer savings account. A is an individual. In 2018, A creates a new interest-bearing savings account with a financial institution. In 2018, A submits a form with the department designating the account as a first-time homebuyer savings account and designating Z, an Iowa resident who has never owned a home, as the beneficiary of the account. In tax year 2018, A contributes \$1,000 to the first-time homebuyer savings account. A contributes \$1,000 per year to the first-time homebuyer savings account during tax years 2019, 2020, and 2021. Every year, A timely submits the required annual reports and all accompanying information. After making the \$1,000 deposit for 2021, A has a total of \$4,100 in the first-time homebuyer savings account. In 2022, A withdraws \$1,000 from the account in order to pay for personal expenses.

Result: The \$1,000 withdrawal is a nonqualifying withdrawal. A must file a withdrawal report with the department within 90 days of the withdrawal. A withdrawal report is required for both qualifying and nonqualifying withdrawals. The \$1,000 withdrawal will result in the addition of \$1,000 to A’s 2022 net income. A will also be assessed a \$100 penalty. The balance of the first-time homebuyer account is \$3,100. Subject to the ten-year limitation and the other requirements of the deduction, A may use the remaining \$3,100 for Z’s eligible home costs prior to January 1, 2028. If A does so, A will not have the \$3,000 added back to A’s net income or face any penalties associated with the \$3,000 eligible home costs. Regardless of what occurs with the remaining \$3,100, A will be prohibited from claiming the first-time homebuyer deduction for any period after the date of the nonqualified withdrawal. This is true even if A attempts to repay the \$1,000 withdrawal or if A attempts to open any other first-time homebuyer accounts.

EXAMPLE 5: No withdrawals made within ten years of opening the account. A is an individual. In March of 2018, A creates a new interest-bearing savings account with a financial institution. A completes all of the necessary paperwork and designates Z as the beneficiary of the account. In 2018, and in each subsequent year, A contributes \$1,000 to the first-time homebuyer savings account. On December 31, 2027, A has made a total of \$10,000 dollars in contributions to the account, has taken a deduction for each contribution, and has made no withdrawals from the account. On January 1, 2028, Z still has not purchased a qualifying home.

Result: As of January 1, 2028, the account is no longer a first-time homebuyer savings account, and the entire account balance is deemed to have been withdrawn in a nonqualifying withdrawal. A is required to report the entire \$10,000 previously deducted for contributions to the account as income in tax year 2028, and pay a \$1,000 penalty for the nonqualifying withdrawal. A can no longer open a new first-time homebuyer savings account or take any deductions for contributions made to another account under the program.

EXAMPLE 6: Divorce between taxpayers with a joint account. A and B are a married couple who file a joint Iowa income tax return. In 2018, A and B open a joint savings account and take the necessary steps to designate it as a joint first-time homebuyer savings account. In 2018, A and B contribute \$2,000 to the account and deduct the full amount on their joint Iowa income tax return for 2018. They contribute the same amount, file joint returns, and deduct the full amount in tax years 2019, 2020, and 2021. In 2022, A and B divorce. The divorce decree divides the funds in the account evenly between A and B.

Result: In this situation, when the funds from the account are distributed between A and B, the entire withdrawal is deemed to be a nonqualifying withdrawal, and A and B are jointly and severally

REVENUE DEPARTMENT[701](cont'd)

liable for the payment of the tax and penalty due on the entire amount that they previously deducted for contributions to the first-time homebuyer savings account.

Alternative result: A and B can avoid this result by taking some steps before the divorce decree is entered. Prior to the divorce decree, A and B can each open a new first-time homebuyer savings account individually. As long as the divorce decree orders that funds from the original joint first-time homebuyer savings account be transferred to A's and B's new individual accounts, the funds may be transferred without triggering a nonqualifying withdrawal, A and B will not be subject to taxes or penalties on their previous contributions to the account, and each will still be eligible to take deductions for contributions to the new account, subject to the applicable limitations. In this scenario, the transfer must occur as a direct result of a court order; if A or B transfers funds themselves, the transfer is deemed to be a nonqualifying withdrawal.

Even if the funds in A and B's original joint account are successfully transferred without triggering a nonqualifying withdrawal as described above, both A and B will still be jointly and severally liable for any tax or penalty due on any nonqualifying withdrawal that either makes later, up to the amount they deducted on their joint returns prior to the divorce.

EXAMPLE 7: Death of the account holder. A is an individual. In 2018, A creates a new interest-bearing savings account with a financial institution. In 2018, A submits a form to the department designating the account as a first-time homebuyer savings account and designating Z, an Iowa resident who has never owned a home, as the beneficiary of the account. In tax year 2018, A contributes \$1,000 to the first-time homebuyer savings account. A makes \$1,000 contributions per year to the first-time homebuyer savings account during tax years 2019, 2020, and 2021. Every year, A timely submits the required annual reports and all accompanying information. In 2022, A dies without having withdrawn any funds from the account either for a qualifying home purchase for Z or for any other reason.

Result: All of the funds in the account are deemed immediately withdrawn at the time of A's death. Because this is a nonqualifying withdrawal, the \$4,000 in contributions which A previously deducted must be included as income on A's final return. However, because the reason for the deemed withdrawal was A's death, the 10 percent penalty is not included on A's final return.

This rule is intended to implement Iowa Code section 422.7 and chapter 541B.

ARC 3654C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to industrial property tax exemption and providing an opportunity for public comment**

The Department of Revenue hereby proposes to amend Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 427B.1 to 427B.7.

Purpose and Summary

This rule making proposes to change an incorrect cross reference from subrule 71.1(6) to 71.1(7).

Fiscal Impact

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

REVENUE DEPARTMENT[701](cont'd)

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 20, 2018. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50306
Email: tim.reilly@iowa.gov
Phone: 515.725.2294

Persons who want to convey their views orally should contact Legal Services, Department of Revenue, at 515.725.2294 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 80.6(1) as follows:

80.6(1) Authority of city council and board of supervisors. A partial exemption ordinance enacted pursuant to Iowa Code section 427B.1 shall be available to all qualifying property. A city council or county board of supervisors does not have the authority to enact an ordinance granting a partial exemption to only certain qualifying properties (1980 O.A.G. 639). As used in this rule, the term “qualifying property” means property classified and assessed as real estate pursuant to 701—subrule ~~71.1(6)~~ 71.1(7), warehouses and distribution centers, research service facilities, and owner-operated cattle facilities. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Iowa Code sections 554.7101 to 554.7603, except that it does not mean a building

REVENUE DEPARTMENT[701](cont'd)

or structure used primarily to store raw agricultural products or from which goods are sold at retail. “Distribution center” means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods. A “research service facility” is one or more buildings devoted primarily to research and development activities or corporate research services. Research and development activities include, but are not limited to, the design and production or manufacture of prototype products for experimental use. A research service facility does not have as its primary purpose the providing of on-site services to the public. “Owner-operated cattle facility” means a building or structure used primarily in the raising of cattle and which is operated by the person owning the facility.

ARC 3655C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to deadline for notifications to property owners and providing an opportunity for public comment**

The Department of Revenue hereby proposes to amend Chapter 80, “Property Tax Credits and Exemptions,” 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 chapter 427C and sections 441.22 and 441.28.

Purpose and Summary

The purpose of this rule making is to adjust the deadline, from April 15 to April 1, for assessors to notify property owners, in compliance with Iowa Code section 441.28.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 20, 2018. Comments should be directed to:

REVENUE DEPARTMENT[701](cont'd)

Tim Reilly
 Department of Revenue
 Hoover State Office Building
 1305 East Walnut Street
 Des Moines, Iowa 50306
 Email: tim.reilly@iowa.gov
 Phone: 515.725.2294

Persons who want to convey their views orally should contact Legal Services, Department of Revenue, at 515.725.2294 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 80.9(3) as follows:

80.9(3) Notification to property owner. If the property is to be inspected by the county conservation board, the board shall make every effort to submit its recommendation to the assessor in sufficient time for the assessor to notify the claimant by April 15 1. The assessor shall notify the claimant by April 15 1 of the disposition of the application for exemption. If because of the date on which an application is filed a determination of eligibility for the exemption cannot be made in sufficient time for notification to be made by April 15 1, the assessor shall assess the property and notify the property owner of the inability to act on the application. The notification shall contain the actual value and classification of the property and a statement of the claimant’s right of appeal to the local board of review.

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 Mary Mosiman has established today the following rates of interest for public obligations and special assessments. The usury rate for February is 4.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

TREASURER OF STATE(cont'd)

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

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

New official state interest rates, effective February 2, 2018, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .15%
180-364 days	Minimum .25%
One year to 397 days	Minimum .40%
More than 397 days	Minimum .70%

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

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

USURY

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

March 1, 2017 — March 31, 2017	4.50%
April 1, 2017 — April 30, 2017	4.50%
May 1, 2017 — May 31, 2017	4.50%
June 1, 2017 — June 30, 2017	4.25%
July 1, 2017 — July 31, 2017	4.25%
August 1, 2017 — August 31, 2017	4.25%
September 1, 2017 — September 30, 2017	4.25%
October 1, 2017 — October 31, 2017	4.25%
November 1, 2017—November 30, 2017	4.25%
December 1, 2017—December 31, 2017	4.25%
January 1, 2018 — January 31, 2018	4.25%
February 1, 2018 — February 28, 2018	4.50%
March 1, 2018 — March 31, 2018	4.50%

ARC 3658C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

**Proposing rule making related to employer registration penalties
and providing an opportunity for public comment**

The Director of the Department of Workforce Development hereby proposes to amend Chapter 22, “Employer Records and Reports,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96.

Purpose and Summary

This proposed amendment rescinds a previous amendment to rule 871—22.9(96) and reserves the subrule number for a future amendment. The Department is seeking statutory authority from the Legislature for the amendment.

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 20, 2018. Comments should be directed to:

David J. Steen
Iowa Department of Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: david.steen@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.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Rescind and reserve subrule **22.9(3)**.

ARC 3662C**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed Emergency After Notice****Rule making related to carbon monoxide alarms**

The State Fire Marshal in the Department of Public Safety hereby adopts new Chapter 211, “Carbon Monoxide Alarms,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 100.35 and 2016 Iowa Acts, Senate File 2219.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 100.35 and 2016 Iowa Acts, Senate File 2219.

Purpose and Summary

2016 Iowa Acts, Senate File 2219, which requires the installation of carbon monoxide alarms in certain single-family dwellings and single- and multiple-unit residential buildings and which provides for enforcement and penalties, was enacted by the General Assembly during its regular session in 2016. The legislation requires the State Fire Marshal to promulgate administrative rules to require the installation of carbon monoxide alarms in existing single-family dwellings and existing single-family rental units and multiple-unit residential buildings that have a fuel-fired heater or appliance, a fireplace, or an attached garage and to require the installation of carbon monoxide alarms in single-family dwellings and single-family rental units and multiple-unit residential buildings that have a fuel-fired heater or appliance, a fireplace, or an attached garage and for which construction is authorized or is started on or after July 1, 2018. The legislation also requires the State Fire Marshal to promulgate administrative rules for the enforcement of these requirements, including the placement of carbon monoxide alarms and the use of approved carbon monoxide alarms, and authorizes the State Fire Marshal to implement a program of inspections limited to the placement, repair, and operability of carbon monoxide alarms to monitor compliance and to provide for the notification of the owner or manager of any noncompliance. The legislation authorizes the State Fire Marshal to contract with any political subdivision for the performance of the inspections and notifications without any fee assessed to either the State Fire Marshal or the political subdivision. The legislation will become effective on July 1, 2018.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 3, 2018, as **ARC 3545C**. A public hearing was held on January 23, 2018. There were no written or oral comments submitted by the public. The State Fire Marshal had two meetings with interested stakeholders to receive input and comments before the Notice of Intended Action was submitted. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the State Fire Marshal finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on February 7, 2018, because the rule confers a benefit on the public or some segment thereof. The legislation is effective as of July 1, 2018, and homeowners and landlords will benefit from

PUBLIC SAFETY DEPARTMENT[661](cont'd)

the State Fire Marshal's expediting the effective date of the rules so that homeowners and landlords can work toward being in compliance by July 1, 2018.

Adoption of Rule Making

This rule making was adopted by the State Fire Marshal on February 7, 2018.

Fiscal Impact

The fiscal impact is expected to be minimal and less than \$100,000. The State Fire Marshal intends to coordinate and work closely with local building code officials and inspectors to fulfill the requirements of the legislation. There will be a fiscal impact to the property owners for the cost of providing or installing carbon monoxide alarms as required.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. The installation of carbon monoxide alarms will promote the safety of persons living in single- or multifamily dwelling units.

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the State Fire Marshal does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Fire Marshal for a waiver of the discretionary provisions, if any, pursuant to rules 661—200.2(100) and 661—10.222(17A). Pursuant to the provisions of rules 661—200.2(100) and 661—10.222(17A), the State Fire Marshal has the authority to grant waivers from the rules.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making became effective on February 7, 2018.

The following rule-making action is adopted:

Adopt the following new 661—Chapter 211:

CHAPTER 211
CARBON MONOXIDE ALARMS

661—211.1(86GA,SF2219) Scope. The provisions of this chapter apply to new and existing single-family residences, single-family rental units, and multiple-unit residential buildings. The provisions of this chapter do not apply to nonresidential occupancies including but not limited to Group I and Group E occupancies.

661—211.2 to 211.9 Reserved.

661—211.10(86GA,SF2219) Definitions. The following definitions apply to this chapter.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

“Building” means a combination of materials, whether portable or fixed, to form a structure affording facilities or shelter for persons, animals or property. The term “building” includes any part of a building or an addition to a building.

“Carbon monoxide alarm” means one or more devices, including but not limited to combination carbon monoxide alarm/smoke alarms, which detect carbon monoxide gas for the purpose of alerting occupants by a distinct audible signal, which incorporate a sensor, control components, and an alarm notification appliance in a single unit operated from a power source either in the unit or obtained at the point of installation, and which meet the standards established by the Underwriters Laboratories (UL). All carbon monoxide alarms shall meet the requirements of the National Fire Protection Association (NFPA) Standard 720, 2013 edition, and be UL listed in accordance with UL 2034.

“Carbon monoxide detection system” means a system or portion of a combination system which consists of a control unit, components, and circuits arranged to monitor and annunciate the status of carbon monoxide alarm initiating devices and to initiate the appropriate response to those signals, and which meets the standards established by the Underwriters Laboratories (UL). All carbon monoxide detection systems shall meet the requirements of the National Fire Protection Association (NFPA) Standard 720, 2013 edition, shall display a label or other identification issued by an approved testing agency, and shall be UL listed in accordance with UL 2075.

“Communicating opening” means a door, window, or any other opening which allows air to be exchanged between a fuel-burning appliance or garage and a sleeping unit or dwelling unit.

“Dwelling unit” means a room or suite of rooms used for human habitation which provide complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“Existing” means buildings, facilities or conditions that are already in existence, constructed or officially authorized prior to July 1, 2018.

“Fuel” means coal, kerosene, oil, fuel gases, or other petroleum products or hydrocarbon products such as wood that emit carbon monoxide as a byproduct of combustion.

“Fuel-burning” or *“fuel-fired”* means an appliance, heater, furnace, or fireplace which uses and combusts fuel as part of its designed use.

“Garage” or *“attached garage”* means a building or portion of a building in which motor vehicles are stored or kept.

“Listed” means equipment, materials, products or services included in a list published by an organization acceptable to the state fire marshal or local fire code official and concerned with evaluation of products or services that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services and whose listing states either that the equipment, material, product or service meets identified standards or has been tested and found suitable for a specified purpose. All carbon monoxide alarms, combination carbon monoxide alarm/smoke alarms, and carbon monoxide detection systems installed under these rules must be listed with the Underwriters Laboratories.

“Multiple-unit residential building” means a building that contains more than two dwelling units or sleeping units. “Multiple-unit residential building” includes but is not limited to condominiums; townhouses; co-ops; apartment houses or portions of a building or an apartment house; hotels; motels; dormitories; or rooming houses.

“Open-ended corridor” means an interior corridor that is open on each end and connects to an exterior stairway or ramp at each end with no intervening doors or separation from the corridor.

“Single-family rental unit” means a building that contains not more than two dwelling units or sleeping units that are rented or leased for living purposes.

“Single-family residence” or *“single-family dwelling”* means a building that contains not more than two dwelling units that are used, or intended or designed to be used, for living purposes.

“Sleeping unit” means a room or space in a building in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

661—211.11(86GA,SF2219) Carbon monoxide alarms—required. Carbon monoxide alarms are required in the following buildings if the building is served by a fuel-burning heater, fuel-burning furnace, fuel-burning appliance, fuel-burning fireplace, or has an attached garage.

211.11(1) *New construction.* Multiple-unit residential buildings and single-family residences for which construction is begun on or after July 1, 2018.

211.11(2) *Existing buildings.* Single-family rental units, single-family residences, and multiple-unit residential buildings.

661—211.12(86GA,SF2219) Installation and placement of carbon monoxide alarms.

211.12(1) *Location.* When required by rule 661—211.11(86GA,SF2219), a carbon monoxide alarm shall be installed in the following locations:

- a. In the immediate vicinity of every room used for sleeping purposes in each dwelling unit.
- b. In each bedroom where a fuel-burning heater or furnace, fuel-burning appliance, or fireplace is located within the bedroom or its attached bathroom.
- c. In each sleeping unit, if the sleeping unit or its attached bathroom contains a fuel-burning appliance, fuel-burning heater or furnace, or fireplace.
- d. In the immediate vicinity of each sleeping unit where the sleeping unit or its attached bathroom does not contain a fuel-burning appliance, fuel-burning heater, or fireplace and is not served by a forced-air furnace.

211.12(2) *Carbon monoxide alarm location—exceptions.* A carbon monoxide alarm shall not be required in the locations specified by subrule 211.12(1) when:

- a. There are no communicating openings between the fuel-burning heater or furnace, fuel-burning appliance, fireplace, or attached garage and a dwelling unit or sleeping unit.
- b. There are no communicating openings between the fuel-burning heater or furnace, fuel-burning appliance or fireplace and a dwelling unit or sleeping unit and when a dwelling unit or sleeping unit is located more than one story above or below an attached garage.
- c. There are no communicating openings between the fuel-burning heater or furnace, fuel-burning appliance, or fireplace and a sleeping unit or dwelling unit and the attached garage connects to the building through an open-ended corridor.
- d. A carbon monoxide alarm is located on the ceiling of the room containing the fuel-burning heater, fuel-burning appliance or fireplace, or in the first room or area between the fuel-burning heater, fuel-burning appliance or fireplace and the dwelling unit or sleeping unit.

211.12(3) *Forced-air furnace—exception.* A carbon monoxide alarm shall not be required in a dwelling unit or sleeping unit which is served by a fuel-burning forced-air furnace when a carbon monoxide alarm is located on the ceiling of the room containing the forced-air furnace or in the first room or area served by each main duct leaving the forced-air furnace and the carbon monoxide alarm signals are automatically transmitted to the occupants of each dwelling unit or sleeping unit served by the forced-air furnace.

661—211.13(86GA,SF2219) Carbon monoxide alarms—alternative systems.

211.13(1) *Carbon monoxide detection systems.* Commercially installed carbon monoxide detection systems which have the capability of notifying all occupants of dwelling units or sleeping units within a building shall be an acceptable alternative to the installation of carbon monoxide alarms and shall be deemed compliant with this chapter.

211.13(2) *Combination alarms.* The carbon monoxide alarm may be combined with smoke detecting devices provided that the combined unit complies with the respective provisions of 661—Chapter 210 regarding smoke detectors and this chapter regarding carbon monoxide alarms or other reference standards and applicable codes. A combined carbon monoxide alarm/smoke alarm shall emit different alarm signals for carbon monoxide and for smoke. Combination carbon monoxide alarm/smoke alarms shall be an acceptable alternative to carbon monoxide alarms.

661—211.14(86GA,SF2219) Carbon monoxide alarms—power source.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

211.14(1) *New construction—power source.* In buildings for which construction is begun on or after July 1, 2018, carbon monoxide alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source. Wiring shall be permanent and without a disconnecting switch other than that required for overcurrent protection and shall be equipped with a battery backup.

211.14(2) *Wiring installation.* Any installation of wiring and equipment shall comply with 661—Chapter 504, Standards for Electrical Work, and requirements established by the manufacturer of the equipment serviced by the wiring.

211.14(3) *Existing buildings—power source.* New and replacement carbon monoxide alarms installed in existing buildings may be solely battery operated or may plug into an electrical socket and have a battery backup.

661—211.15 to 211.19 Reserved.

661—211.20(86GA,SF2219) Responsibility for installation and maintenance of carbon monoxide alarms.

211.20(1) *Owner, owner's agent, or manager.* It is the responsibility of the owner, owner's agent, or manager of a multiple-unit residential building, single-family residence, or single-family rental unit to install carbon monoxide alarms as required by this chapter. However, if a dwelling unit in a multiple-unit residential building qualifies for a homestead credit pursuant to Iowa Code chapter 425, then only the owner-occupant of the dwelling unit shall have the responsibility to install and maintain carbon monoxide alarms as required by this chapter.

211.20(2) *Maintenance of carbon monoxide alarms.*

a. It is the responsibility of the owner of a multiple-unit residential building, single-family rental unit, or dwelling unit to supply and install all required carbon monoxide alarms and to ensure that the batteries are in operating condition at the time the lessee, tenant, guest or roomer takes possession of the dwelling unit or sleeping unit. The owner is responsible for providing written information regarding carbon monoxide alarm testing and maintenance to one lessee, tenant, guest or roomer per dwelling unit or sleeping unit.

b. An owner or manager may require a lessee, tenant, guest, or roomer who has a residency longer than 30 days to be responsible for general maintenance, including but not limited to replacement of any required batteries of the carbon monoxide alarms in the lessee's, tenant's, guest's, or roomer's dwelling unit or sleeping unit, and for testing the carbon monoxide alarms within the lessee's, tenant's, guest's, or roomer's dwelling unit or sleeping unit. The lessee, tenant, guest or roomer is responsible for notifying the owner or manager in writing of any deficiencies that the lessee, tenant, guest or roomer cannot correct. The lessee, tenant, guest or roomer shall provide the owner or manager with access to the dwelling unit or sleeping unit to correct any deficiencies in the carbon monoxide alarm that have been reported in writing to the owner or manager.

211.20(3) *Hearing-impaired tenant.* An owner of a multiple-unit residential building or a single-family rental unit in which a carbon monoxide alarm is required, or the owner's agent, shall, upon request of a tenant who has a hearing impairment, install light-emitting carbon monoxide alarms.

661—211.21(86GA,SF2219) Certification of installation required. A person who files for a homestead credit pursuant to Iowa Code chapter 425 shall certify that the dwelling unit that has a fuel-fired heater or furnace, a fuel-fired appliance, a fireplace, or an attached garage has carbon monoxide alarms installed in compliance with this chapter or that such alarms will be installed within 30 days of the date the filing for the credit is made.

661—211.22(86GA,SF2219) Inspections, notifications and remedies.

211.22(1) *Inspections authorized.* Inspections may be conducted by the state fire marshal or by the fire marshal's subordinates, chiefs of local fire departments, state or local building inspectors, or other fire, building, or safety officials authorized by the state fire marshal. Any inspections authorized under

PUBLIC SAFETY DEPARTMENT[661](cont'd)

this rule are limited to the placement, repair, and operability of carbon monoxide alarms and carbon monoxide detection systems.

211.22(2) *Inoperable carbon monoxide alarms.* If a carbon monoxide alarm is found to be inoperable, the owner or manager of the multiple-unit residential building or single-family rental unit shall promptly provide for repair or replacement of the carbon monoxide alarm.

211.22(3) *Corrective action.* Upon receiving written notification by a tenant, guest, or roomer or by the state fire marshal, fire marshal's subordinates, a chief of a local fire department, a building inspector, or other fire, building or safety official that a carbon monoxide alarm is inoperable, the owner or manager of the multiple-unit residential building or single-family rental unit shall repair or replace the carbon monoxide alarm within 30 days.

211.22(4) *Remedies by tenant, guest, or roomer.* If the owner or manager of a multiple-unit residential building or single-family rental unit fails to correct the situation within the 30 days after receipt of written notice, the tenant, guest, or roomer may cause the carbon monoxide alarm to be repaired or may purchase and install a carbon monoxide alarm required under this chapter and may deduct the repair cost or purchase price from the next rental payment or payments made by the tenant, guest, or roomer.

These rules are intended to implement 2016 Iowa Acts, Senate File 2219.

[Filed Emergency After Notice 2/7/18, effective 2/7/18]

[Published 2/28/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/28/18.

ARC 3663C**HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DEPARTMENT[605]****Adopted and Filed****Rule making related to transfer of emergency response duties**

The Department of Homeland Security and Emergency Management hereby rescinds Chapter 100, “Mission of Commission,” and Chapter 101, “Operations of Commission,” and amends Chapter 102, “Emergency Planning Districts,” and Chapter 103, “Local Emergency Planning Committees,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 30.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 29C and 30.

Purpose and Summary

The rescissions and amendments are intended to implement 2017 Iowa Acts, Senate File 351. Senate File 351 eliminated the Iowa Emergency Response Commission and placed the associated responsibilities of the Commission under the purview of the Department. This transfer of duties does not adversely impact the ability of the state to meet the requirements set forth in United States Code Title 42, Chapter 116, Emergency Planning and Community Right-to-Know Act (EPCRA).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 3, 2018, as **ARC 3531C**. 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 7, 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

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.

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

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

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

Effective Date

This rule making will become effective on April 4, 2018.

The following rule-making actions are adopted:

ITEM 1. Rescind and reserve **605—Chapter 100**.

ITEM 2. Rescind and reserve **605—Chapter 101**.

ITEM 3. Amend rule 605—102.1(30) as follows:

605—102.1(30) Requirement to designate, and organization of, emergency planning districts. The ~~Iowa emergency response commission (IERC) department~~ is required to designate emergency planning districts. A local emergency planning committee is appointed by the ~~IERC department~~ for each emergency planning district. The local emergency planning committee shall be responsible for the implementation of Emergency Planning and Community Right-to-Know Act (EPCRA) activities in each of the emergency planning districts including facilitating preparation and implementation of emergency planning for the emergency planning district.

ITEM 4. Amend rule 605—102.3(30) as follows:

605—102.3(30) Application to modify districts. Two or more local emergency planning committees with commonality of interests may petition the ~~IERC department~~ to amend, modify, or combine their districts. Petitions shall specify the geographical district requested, the reasons for the change, the benefit to the public by the designation of the proposed geographical district, and the proposed date for the change in designation.

ITEM 5. Amend **605—Chapter 102**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 29C and 30 and 1992 Iowa Acts, ~~chapter 1139~~.

ITEM 6. Amend rules 605—103.1(30) to 605—103.7(30) as follows:

605—103.1(30) Requirement to appoint local emergency planning committees (LEPC) (LEPCs).

103.1(1) Purpose. The ~~Iowa emergency response commission (IERC) department~~ is required to appoint members to local emergency planning committees. An LEPC is appointed for each of the emergency planning districts established in 605—Chapter 102.

103.1(2) Representation. As a minimum, each LEPC should be comprised of a representative from each of the following groups or organizations:

- a. and b. No change.
- c. ~~Civil defense~~ Emergency management personnel,
- d. to l. No change.

605—103.2(30) Committee Local emergency planning committee (LEPC) members.

103.2(1) Appointment of local emergency planning committees. Nominations to the ~~an existing~~ LEPC shall be made by the ~~local emergency management commission, established under Iowa Code section 29C.9, LEPC~~ and shall be subject to review and appointment by the ~~IERC department~~. ~~To the extent possible, membership of the LEPC shall be composed of members of the local emergency management commission.~~ Vacancies on the LEPC shall be filled in accordance with this subrule.

103.2(2) No change.

103.2(3) Member changes. The ~~IERC department~~ may revise the appointments made as it deems appropriate. Interested persons may petition the ~~IERC department~~ to modify the membership of an LEPC.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

605—103.3(30) Local emergency planning committee (LEPC) duties.

103.3(1) to 103.3(3) No change.

103.3(4) The LEPC shall designate an official to respond to requests for information from the public for material safety data sheets, chemical lists, chemical inventory forms, emergency response plans, and toxic chemical releases forms. The information, including minutes of the LEPC and related committee actions, shall be available to the public during normal working hours at a location designated by the LEPC. (42 U.S.C. 11044(a))

103.3(5) The LEPC shall prepare an emergency plan for the district and shall review and revise as necessary the emergency plan at least annually. Both the initial emergency plan and any updates or revisions shall be submitted by the LEPC to the IERC department in accordance with subrule 103.4(2) rule 605—103.4(30). (42 U.S.C. 11003(a), 42 U.S.C. 11003(e))

103.3(6) to 103.3(8) No change.

103.3(9) The LEPC shall annually publish notice that emergency response plan, material safety data sheets, and inventory forms have been submitted and how the public can obtain access to the material for review. (42 U.S.C. 11044(b))

605—103.4(30) Emergency response plan development. The IERC department recognizes that emergency planning includes more than chemical release planning. The chemical release planning required by this chapter and EPCRA shall be included in the comprehensive emergency planning conducted by the local emergency management commission as required by Iowa Code chapter 29C and planning standards of the Iowa homeland security and emergency management department.

605—103.5(30) Local emergency planning committee (LEPC) office. The LEPC shall designate a local government office that will serve as the focal point for receiving nonemergency notifications from facilities that are subject to the law. This office shall also be the depository for material safety data sheets, chemical lists, chemical inventory forms, emergency response plans, and toxic chemical releases forms and a point of contact for the public regarding community right-to-know inquiries, and the office of record for minutes of the LEPC meetings and related committee actions.

605—103.6(30) Local emergency response committee (LEPC) meetings. The LEPC shall meet as frequently as deemed necessary by the chair until the local emergency operations plan is developed and concurred with by the joint administration and reviewed by the IERC department. Subsequent to plan approval, the LEPC is required to meet at least annually to review emergency response procedures, emergency plans and ensure the actions required are properly administered within the local emergency planning district.

605—103.7(30) Local emergency response plan submission. After completion of the initial emergency response plan and any subsequent revisions thereto, the LEPC shall submit a copy to the IERC department. The IERC department shall review the submission and make recommendations to the LEPC on appropriate revisions that may be necessary to comply with provisions in 42 U.S.C. 11003(c) and state planning standards in 605—Chapter 7 to ensure coordination with emergency response plans of other emergency planning districts, the state of Iowa, and adjacent states. To the maximum extent practicable, the review shall not delay implementation of the plan or revisions thereto. All plans shall be submitted annually by October 17 August 1.

[Filed 2/8/18, effective 4/4/18]

[Published 2/28/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/28/18.

ARC 3664C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to Iowa education savings plan trust**

The Department of Revenue hereby amends Chapter 40, “Determination of Net Income,” Chapter 41, “Determination of Taxable Income,” and Chapter 53, “Determination of Net Income,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 422.7 and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.7 as amended by 2015 Iowa Acts, Senate File 510, and Iowa Code sections 422.9 and 422.35 as amended by 2016 Iowa Acts, Senate File 2301.

Purpose and Summary

Legislation passed in 2015 and 2016 made changes to the Iowa Education Savings Plan Trust Program. The 2015 changes allowed participants to deduct certain contributions made after the end of the tax year for which the deduction was claimed, but before the Iowa filing deadline for that year, on their Iowa income tax returns. The 2016 changes allowed certain charitable organizations to establish Iowa education savings plan accounts as participants and provided restrictions on the charitable deductions that individuals and corporations were allowed to take on contributions to those participant organizations. These amendments are intended to update the existing rules to reflect these legislative changes. These amendments also strike some outdated language that is no longer in effect.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 3, 2018, as **ARC 3542C**. No public comments were received. At the request of the Administrative Rules Review Committee, a cross reference to 781—Chapter 16 has been added to rule 701—40.53(422). These amendments are otherwise identical to those published under Notice.

Adoption of Rule Making

This rule making was adopted by the Department of Revenue on February 7, 2018.

Fiscal Impact

Both of the bills these amendments are intended to implement had estimated fiscal impacts on the general fund. These amendments to the Department’s rules have no known fiscal impact beyond that of the legislative changes the amendments are intended to implement.

Jobs Impact

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

Waivers

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

REVENUE DEPARTMENT[701](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 4, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 701—40.53(422) as follows:

701—40.53(422) Deduction for contributions by taxpayers to the Iowa educational savings plan trust and addition to income for refunds of contributions previously deducted. The Iowa educational savings plan trust was created so that individuals and certain other qualified participants can contribute funds on behalf of beneficiaries in accounts administered by the treasurer of state to cover future higher education costs of the beneficiaries. The Iowa educational savings plan trust includes the college savings Iowa plan and the Iowa advisor 529 plan. The following subrules provide details on how individuals' net incomes are affected by contributions to beneficiaries' accounts, interest and any other earnings earned on beneficiaries' accounts, and refunds of contributions which were previously deducted. Definitions and other information about establishing college savings Iowa accounts may be found in rules promulgated by the treasurer of state. See 781—Chapter 16.

40.53(1) Deduction from net income for contributions made to the Iowa educational savings plan trust on behalf of beneficiaries.

a. ~~Effective with contributions made on or after July 1, 1998, an~~ An individual referred to as a "participant" can claim a deduction on the Iowa individual income tax return for contributions made by that individual to the Iowa educational savings plan trust on behalf of a beneficiary.

b. For tax years beginning on or after January 1, 2015, if a participant makes a contribution to the Iowa educational savings plan trust on or after January 1, but on or before the deadline for filing an Iowa individual income tax return, excluding extensions, the participant may elect to have the deduction for the contribution apply to that participant's Iowa individual income taxes for the calendar year immediately preceding the year in which the contribution was made. Once a participant has elected to apply a contribution to the calendar year immediately preceding the year in which the contribution was made, the contribution is deemed to have been made on December 31 of that previous calendar year. Once the election has been made, the deduction for that contribution may only be applied in computing the taxpayer's Iowa net income for the calendar year immediately preceding the year in which the contribution was made. Contributions made on or after January 1, but before the deadline for filing Iowa individual income taxes, that the participant elects to have applied to the immediately preceding calendar year shall count toward the maximum contribution that may be deducted for that previous year. See paragraph 40.53(1) "c" below.

EXAMPLE: An individual makes a contribution to her Iowa educational savings plan account on April 5, 2018. The deadline for filing a 2017 Iowa income tax return is April 30, 2018. The individual elects to have the contribution apply to her 2017 individual income taxes instead of her 2018 Iowa individual income taxes. The department of revenue will consider the individual's contribution to have been made on December 31, 2017. The individual may now claim a deduction for the contribution, up to the annual maximum deduction, on her 2017 Iowa income taxes. However, because the individual elected to have her contribution apply to her 2017 Iowa income taxes, she cannot claim the deduction for the April 5, 2018, contribution on her 2018 Iowa income tax return.

c. The deduction on the 1998 Iowa return cannot exceed \$2,000 per beneficiary for contributions made in 1998 or the adjusted maximum annual amount for contributions made after 1998. Note that the

REVENUE DEPARTMENT[701](cont'd)

maximum annual amount that can be deducted per beneficiary may be adjusted or increased to an amount greater than \$2,000 for inflation on an annual basis. Rollover contributions from other states' educational savings plans will qualify for the deduction, subject to the maximum amount allowable. Starting with tax years beginning in the 2000 calendar year, a participant may contribute an amount on behalf of a beneficiary that is greater than \$2,000, but may claim a deduction on the Iowa individual return of the lesser of the amount given or \$2,000 as adjusted by inflation. For example, if a taxpayer made a \$5,000 contribution on behalf of a beneficiary to the educational savings plan in 2000, the taxpayer may claim a deduction on the IA 1040 return for 2000 in the amount of \$2,054, as this amount is \$2,000 as adjusted for inflation in effect for 2000.

~~For example, an~~ **EXAMPLE:** An individual has ten grandchildren from the age of six months to 12 years. In October 1998, the person became a participant in the Iowa educational savings plan trust by making \$2,000 contributions to the trust on behalf of each of the ten grandchildren. When the participant files the 1998 Iowa individual income tax return, the participant can claim a deduction on the return for the \$20,000 contributed to the Iowa educational savings plan trust on behalf of the individual's ten grandchildren.

40.53(2) *Exclusion of interest and earnings on beneficiary accounts in the Iowa educational savings plan trust.* To the extent that interest or other earnings accrue on a beneficiary's account in the Iowa educational savings plan trust, the interest or other earnings are excluded for purposes of computing net income on the Iowa individual income tax return of the participant or the return of the beneficiary.

40.53(3) *Including on the Iowa individual return amounts refunded to the participant from the Iowa educational savings plan trust that had previously been deducted.* If a participant cancels a beneficiary's account in the Iowa educational savings plan trust and receives a refund of the funds in the account made on behalf of the beneficiary, or if a participant makes a withdrawal from the Iowa educational savings plan trust for purposes other than the payment of qualified education expenses, the refund of the funds is to be included in net income on the participant's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the participant.

~~For example, because~~ **EXAMPLE:** Because a beneficiary of a certain participant died in the year 2000, this participant in the Iowa educational savings plan trust canceled the participant agreement for the beneficiary with the trust and received a refund of \$4,200 of funds in the beneficiary's account. Because \$4,000 of the refund represented contributions that the participant had deducted on prior Iowa individual income tax returns, the participant was to report on the Iowa return for the tax year 2000, \$4,000 in contributions that had been deducted on the participant's Iowa returns for 1998 and 1999.

~~**40.53(4)** *Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust.* To the extent that the contribution was not deductible for federal income tax purposes, an individual can deduct on the Iowa individual income tax return a gift, grant, or donation to the endowment fund of the Iowa educational savings plan trust. The contribution must be made on or after July 1, 1998, but before April 15, 2004. Effective April 15, 2004, the deduction for contributions made to the endowment fund is repealed.~~

This rule is intended to implement Iowa Code section 422.7 as amended by 2007 Iowa Acts, House File 923 2015 Iowa Acts, chapter 138, sections 72 and 73, and 2016 Iowa Acts, chapter 1107.

ITEM 2. Adopt the following **new** subrule 41.5(18):

41.5(18) Charitable contributions relating to the Iowa education savings plan trust. For tax years beginning on or after January 1, 2016, certain qualifying organizations may establish Iowa education savings plan trust accounts as participants, as described in Iowa Code chapter 12D. Taxpayers may make charitable contributions to such qualifying organizations so that the organization can deposit the contribution into the organization's Iowa education savings plan trust account. However, for Iowa income tax purposes, a taxpayer must add back any portion of the federal charitable contribution deduction allowed for a contribution to a qualifying organization, to the extent that the taxpayer designated that any part of such contribution be used for the direct benefit of the taxpayer's dependent or for the benefit of any other specific person chosen by the taxpayer.

REVENUE DEPARTMENT[701](cont'd)

ITEM 3. Amend rule 701—53.21(422) as follows:

701—53.21(422) Deduction for contributions made to the endowment fund of Deductions related to the Iowa educational savings plan trust. ~~To the extent that the contribution was not deductible for federal income tax purposes, any gift, grant, or donation to the endowment fund of the Iowa educational savings plan trust may be deducted for Iowa income tax purposes. The contribution must be made on or after July 1, 1998, but before April 15, 2004. Effective April 15, 2004, the deduction for contributions made to the endowment fund is repealed.~~ For tax years beginning on or after January 1, 2016, certain qualifying organizations may establish Iowa education savings plan trust accounts as participants, as described in Iowa Code chapter 12D. Taxpayers may make contributions to such qualifying organizations so that the organization can deposit the contribution into the organization's Iowa education savings plan trust account. However, for Iowa income tax purposes, a taxpayer must add back any portion of the federal charitable contribution deduction allowed for a contribution to a qualifying organization, to the extent that the taxpayer designated that any part of such contribution be used for the direct benefit of a dependent of a shareholder or for the benefit of any other specific person chosen by the taxpayer.

~~This rule is intended to implement Iowa Code section 422.35 as amended by 1998 Iowa Acts, House File 2119~~ 2016 Iowa Acts, chapter 1107.

[Filed 2/7/18, effective 4/4/18]

[Published 2/28/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/28/18.

ARC 3665C

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to equipment distribution program

The Utilities Board hereby amends Chapter 37, "Equipment Distribution Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted 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 sections 17A.4 and 477C.4.

Purpose and Summary

These amendments are intended to update, streamline, and reorganize the rules governing the Board's equipment distribution program (EDP) for greater clarity.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 21, 2017, as **ARC 3119C**. A public hearing was held on August 16, 2017. Comments at the oral presentation addressed the connectivity requirement in subrule 37.4(2); income guidelines in subrule 37.4(6); and the reapplication period in subrule 37.4(8), among other topics.

Written comments were submitted before and after the oral presentation. The Board issued an order adopting amendments on February 9, 2018. The order is available on the Board's electronic filing system at efs.iowa.gov under Docket No. RMU-2016-0040.

UTILITIES DIVISION[199](cont'd)

Based on public comment and the Board's further review, the Board adopted the amendments as published under Notice with five exceptions. First, the Board adopted a revised version of the amendment to rule 199—37.1(477C) to add a clarifying statement about which persons are served by the program and to add two sentences explaining that the Board's program project manager will provide the Dual Party Relay Council with a proposed program budget before submitting that budget to the Board. Second, the Board adopted a modified version of the introductory paragraph of rule 199—37.4(477C) to add a statement clarifying that by signing the application form, an application certifies that the information provided therein is true. Third, the Board adopted a revised version of the amendment to subrule 37.4(2) to clarify connectivity requirements for persons applying for equipment from the program. Fourth, the Board adopted a revised version of the amendment to the income guidelines in subrule 37.4(6). The revised amendment provides that an applicant's gross annual family income must be equal to or less than \$65,000 for a family of two, with adjustments of \$9,000 for numbers above or below two. Fifth, the Board adopted a revised version of the amendment to subrule 37.4(8), which establishes the reapplication period. The revised amendment clarifies that the Board's EDP project manager may shorten the reapplication period in an individual case for good cause shown and that the program administrator must verify that persons reapplying for equipment continue to qualify for a voucher.

Adoption of Rule Making

This rule making was adopted by the Utilities Board on February 9, 2018.

Fiscal Impact

After analysis and review of this rule making, no fiscal impact is anticipated.

Jobs Impact

After analysis and review of this rule making, no detrimental effect on employment in Iowa is anticipated.

Waivers

Chapter-specific waiver provisions are unnecessary since any person may apply for waiver of any Board rule under 199—1.3(17A,474,476).

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 4, 2018.

The following rule-making action is adopted:

Amend **199—Chapter 37** as follows:

CHAPTER 37
EQUIPMENT DISTRIBUTION PROGRAM

199—37.1(477C) Policy and purpose Purpose. ~~The board has authority under Iowa Code section 477C.4 to plan, establish, administer, and promote a~~ This chapter describes the board's program

UTILITIES DIVISION[199](cont'd)

established pursuant to Iowa Code section 477C.4 to secure, finance, and distribute telecommunications devices for the deaf. ~~The needs for equipment to allow persons with communication impairments to use the telephone are not being satisfied in Iowa at this time. A reasonable distribution program is desirable. All customers will benefit when access to the telephone system is available to more persons. The existing dual party relay service will be more fully utilized when more persons have the equipment necessary to gain access to the relay service. The board's equipment distribution program serves eligible individuals who are deaf or hard of hearing or who have difficulty with speech.~~

The equipment distribution program will be limited by ~~periodic~~ revenue considerations and annual budget amounts set by the board, with the advice of the dual party relay council established in Iowa Code section 477C.5. Before submitting a proposed annual budget to the board, the board's equipment distribution program project manager shall provide the council with the proposed budget for the council's review and discussion at a council meeting. The project manager will advise the board of any council recommendations regarding the proposed budget. When the budgeted amounts for a period are committed or expended, no further vouchers for equipment will be issued until the next period when the board budgets additional amounts.

199—37.2(477C) Program structure. The equipment distribution program will be conducted by a program administrator chosen by the board. Distribution of equipment will be made through a voucher system utilizing private vendors for equipment purchases. Vouchers to pay part or, depending upon the price, all of the cost of equipment will be issued by the program administrator to eligible recipients. After purchase using a voucher, the recipient will be the permanent owner of the equipment and responsible for enforcement of any warranties and for any repairs.

37.2(1) Amount. The voucher will state a standard amount for a particular piece of equipment.

~~a. The standard amount shall be determined and updated periodically by the program administrator.~~

~~b. The standard amount shall be 95 percent of the average retail market price for the piece of equipment, unless the retail market price is more than \$1,000, in which case the standard amount shall be 99 percent of the average retail market price. The standard amount may be increased to 100 percent if a person demonstrates to the program administrator that the person is unable to pay the matching amount.~~

~~37.2(2) Voucher use.~~ The recipient of a voucher may purchase equipment from any vendor who will accept the voucher and may apply the voucher amount toward purchase of the brand and model of indicated equipment as the recipient chooses. A bill of sale for equipment purchased prior to the issuance of a voucher shall not be reimbursed.

~~37.2(3) Term.~~ The vouchers shall provide for a 40-day period to present the voucher to the vendor. The vendor, upon presentation of the voucher, shall have 60 days to complete the sale and delivery of the equipment and to return the voucher to the program administrator. The program administrator shall have 20 days to process and return the voucher to the board for payment. The program administrator, for good cause shown, may extend either the 40- or 60-day deadline, provided the voucher is returned to the board for payment within 120 days from the issuance of the voucher. Except for good cause shown, the vendor will not be reimbursed for a voucher issued more than 120 days before the voucher is returned to the board for payment.

~~37.2(4) Payment.~~ The voucher is not a negotiable instrument. Upon presentation of documentation by the vendor as required by the board, including but not limited to a bill of sale showing an amount due no greater than the voucher amount, the vendor will be issued a state warrant for the amount due.

199—37.3(477C) Equipment. The board will authorize and maintain a list of the types of equipment to be distributed through the program.

199—37.3 199—37.4(477C) Eligibility Application process and eligibility. To be eligible to receive a voucher for equipment under the program, a person must satisfy the following standards. Applications will be processed in queue as determined by the program administrator. No person will be entitled to equipment at a particular time merely because that person meets the eligibility requirements. Additional

UTILITIES DIVISION[199](cont'd)

vouchers will not be issued during a period if unpaid vouchers are outstanding for the remaining funds budgeted for the period. To be eligible to receive a voucher for equipment under the program, a person must satisfy the following requirements. By signing the application form, an applicant certifies that the information provided therein is true.

~~37.3(1)~~ **37.4(1)** Verification of need with initial application. ~~The~~ An applicant's initial application shall include verification of the applicant's need for the equipment must be verified. The verification shall be made by an appropriate professional, including but not limited to a licensed physician; certified teacher in the fields of hearing, speech, or visual impairment; licensed and certified sign language interpreter; speech pathologist; audiologist or hearing aid specialist; or an appropriate state or federal agency representative, as part of the initial application. At the time of reapplication for equipment, the applicant must submit a statement certifying the applicant's condition has not changed to the extent that a different type of equipment is needed. If an applicant's condition has changed to the extent that a different type of equipment is needed from that originally received, the applicant's need must be verified by an appropriate professional.

~~37.3(2)~~ **37.4(2)** The applicant must have telephone service available to the applicant's Iowa residence or must have applied for telephone service to the Iowa residence, or have applied for, access to the service which will allow the applicant to use the requested equipment. Access to Internet service may be provided through a public Wi-Fi connection.

~~37.3(3)~~ **37.4(3)** The applicant must be an individual and an Iowa resident.

~~37.3(4)~~ **37.4(4)** The applicant must be at least five years of age or demonstrate an ability to use the equipment requested. No demonstration is required for those five years of age and older.

~~37.3(5)~~ The applicant will be limited to a voucher for one type of equipment or equipment package. If there are individuals in the same household who have different communication impairments that require different types of assistive telecommunications equipment, the individuals may make a joint or separate request to the equipment distribution program administrator. The administrator may grant those portions of the requests that satisfy the eligibility requirements in this rule.

~~37.3(6)~~ Equipment may be replaced under the program by reapplication as appropriate. Reapplication will be limited by a five-year waiting period. The reapplication period may be shortened by the program administrator for good cause shown.

~~37.3(7)~~ An applicant must agree to cooperate with studies to evaluate the effectiveness of the program.

~~37.3(8)~~ An applicant's gross household income must be less than \$70,000 for a family of four. Household numbers above or below four will increase or decrease that amount in \$8,000 increments.

~~37.4(5)~~ An applicant must agree to cooperate with studies to evaluate the effectiveness of the program.

~~37.4(6)~~ An applicant's gross annual family income must be equal to or less than \$65,000 for a family of two. Family sizes above or below two will increase or decrease that amount in \$9,000 increments per family member change.

~~37.4(7)~~ The applicant will be limited to a voucher for one type of equipment or equipment package. If there are individuals in the same household who have different communication impairments that require different types of equipment, the individuals may make a joint request or separate requests to the program administrator. The program administrator may grant those portions of the requests that satisfy the eligibility requirements in this rule.

~~37.4(8)~~ Reapplication. Prior voucher recipients may reapply through the program to replace existing equipment or to obtain new equipment, as appropriate. Reapplication will be limited by a five-year waiting period. The reapplication period may be shortened by the board's equipment distribution program project manager in an individual case for good cause shown. At the time of reapplication for equipment, it is not necessary for the applicant's need for the equipment to be reverified by an appropriate professional. The program administrator shall verify that the applicant reapplying for equipment previously qualified for and continues to qualify for a voucher.

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199—37.4(477C) Equipment. The board will authorize the types of equipment to be distributed through the program, including but not limited to telecommunications devices for the deaf with printers, signalers, amplifiers, computer software, and a limited number of telecommunications devices for the deaf/blind.

199—37.5(477C) Voucher system.

37.5(1) Amount. The voucher will state a standard amount for a particular piece of equipment.

a. The standard amount shall be determined and updated periodically by the program administrator.

b. The standard amount shall be 95 percent of the average retail market price for the piece of equipment, unless the retail market price is more than \$1,000, in which case the standard amount shall be 99 percent of the average retail market price. The standard amount may be increased to 100 percent if a person demonstrates to the program administrator that the person is unable to pay the matching amount.

37.5(2) Voucher use. The recipient of a voucher may purchase equipment from any vendor that will accept the voucher and may apply the voucher amount toward purchase of the brand and model of indicated equipment as the recipient chooses. An invoice for equipment purchased prior to the issuance of a voucher shall not be reimbursed.

37.5(3) Term. The voucher shall provide for a 40-day period for the voucher recipient to present the voucher to the vendor. The vendor, upon presentation of the voucher, shall have 60 days to complete the sale and delivery of the equipment and to return the voucher to the program administrator. The program administrator shall have 20 days to process and return the voucher to the board for payment. The program administrator, for good cause shown, may extend either the 40- or 60-day deadline, provided the voucher is returned to the board for payment within 120 days from the issuance of the voucher. The program administrator may authorize reimbursement for a voucher issued more than 120 days before the voucher is sent to the board for payment if the program administrator determines good cause exists for extending the 120-day deadline and provides supporting documentation to the board.

37.5(4) Payment. The voucher is not a negotiable instrument. Upon presentation of documentation by the vendor as required by the board, including but not limited to an invoice showing an amount due no greater than the voucher amount, the vendor will be issued a state warrant for the amount due.

199—37.5 199—37.6(477C) Complaints. All complaints concerning the equipment distribution program will be resolved pursuant to the following:

37.5(1) 37.6(1) The program administrator will make determinations concerning matters such as eligibility, type of equipment for particular applicants, or reimbursement of vendors.

a. 37.6(2) The program administrator, after requiring interested persons to state verbally or in writing any complaint or dispute arising under the equipment distribution program, shall attempt to settle the matter informally within 45 days.

b. 37.6(3) Should the informal dispute resolution process fail, the complaint complainant may be submitted submit the complaint to the board by the complainant and will be processed by the project manager as provided for utility customers in 199 IAC 6 for processing by the board's equipment distribution program project manager as provided in 199—Chapter 6. The project manager will provide a copy of the complaint to the program administrator and the consumer advocate. The complaint will be directed to the program administrator with a copy to the consumer advocate. The board staff assigned to the equipment distribution program will then The project manager will issue a proposed resolution as defined in 199 IAC 6.4(476) that describes the facts involved in the dispute, clearly states the proposed resolution, and gives notice that any interested person dissatisfied with the proposed resolution has 14 days after the proposed resolution is issued to file a written request for formal complaint proceedings before the board.

c. 37.6(4) The proposed resolution shall include a description of the facts involved in the dispute and a clear statement of the proposed resolution. If no timely request for formal complaint proceedings is filed, the proposed resolution shall be deemed binding on all interested persons served with the proposed resolution.

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~~d. 37.6(5)~~ The proposed resolution shall also give notice that any interested person dissatisfied with the proposed resolution has 14 days after the issuance of the proposed resolution to file a written request for formal complaint proceedings before the Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. If no timely request for formal complaint proceedings is filed, the proposed resolution shall be deemed binding on all interested persons served with the proposed resolution. The request for formal complaint proceedings shall be considered as filed on the date of the United States Postal Service postmark or the date personal service is made. The board will process requests for formal complaint proceedings as provided in rule 199—6.5(476).

~~37.5(2)~~ The request for formal complaint proceedings shall explain why the proposed resolution should be modified or rejected and propose an alternate resolution, including any temporary relief desired. Copies of the request shall be mailed to any other persons served with the proposed resolution.

~~37.5(3)~~ Upon receipt of a request for formal complaint proceedings, the board shall consider whether formal complaint proceedings should be initiated and issue an order. The request shall be granted if the board determines there is any reasonable ground for investigating the complaint. If the board denies formal complaint proceedings, a party may file a petition for judicial review either in the Polk County district court or in the district court for the county in which the party resides or has its principal place of business.

~~37.5(4)~~ When a complaint is docketed as a formal proceeding, the procedures set forth in 199—Chapter 7 will apply.

These rules are intended to implement Iowa Code section 477C.4.

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