



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 2022 to 2147 include **ARC 5487C** to **ARC 5518C**

ADVISORY NOTICE

Public hearings: possible use of
telephonic or electronic format due to
COVID-19..... 2148

ADMINISTRATIVE SERVICES

DEPARTMENT[11]

Filed, Petitions for rule making, 5.1, 5.4
ARC 5512C 2069

ALL AGENCIES

Agency identification numbers 2020
Citation of administrative rules. 2013
Schedule for rule making. 2014

ECONOMIC DEVELOPMENT

AUTHORITY[261]

Filed, Entrepreneur investment awards
program, 102.3, 102.4, 102.7(1)
ARC 5513C 2070

ENVIRONMENTAL PROTECTION

COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Amended Notice, Water quality
certification, 60.2, 61.2 **ARC 5508C** 2022

EXECUTIVE DEPARTMENT

Advisory Notice, Public hearings:
possible use of telephonic or electronic
format due to COVID-19..... 2148

HUMAN SERVICES DEPARTMENT[441]

Notice, Subsidized guardianship
program, 204.1 to 204.7 **ARC 5505C** 2026

Filed, Home health agency
services—ordering and signing
treatment plan, 78.9, 79.3(2)“d”(27),
83.2(1)“e,” 83.61(1)“k,” 83.82(1)“j”
ARC 5487C 2074

Filed, Child development homes; child
care homes, 110.6(3), 110.8(3)“e,”
110.14(1)“f,” 110.15(1)“e,”
120.8(3)“e” **ARC 5488C** 2078

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Notice, Fees, 5.56, 10.51, 20.13,
35.20(2)“a,” 50.12(3), 50.31, 50.32,
50.34, 50.71, 50.72, 100.18, 101.9,
102.3, 103.4 **ARC 5499C** 2029

Notice, Property and casualty insurance;
self-study continuing education,
11.3(4)“b,” 11.5(7), 20.1, 20.2, 20.4
to 20.6, 20.11, 20.41, 20.43, 20.47(3),
20.71 **ARC 5500C** 2035

Filed, Comprehensive review of rules,
amendments to chs 2, 5, 40, 41, 44 to
46, 48, 99, 100 **ARC 5515C** 2080

Filed, Credit for reinsurance, 5.33,
112.7(1)“e” **ARC 5514C** 2092

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]

Filed, Contribution rates; terms and
requirements; death benefits and
beneficiaries; open and confidential
records, amendments to chs 4, 5, 11 to
14, 17, 19 **ARC 5489C** 2101

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

- Notice, Penalties for citations; waivers; rule making, amendments to chs 1, 3, 5 **ARC 5511C** 2039
- Filed, Federal occupational safety and health standards for beryllium construction, cranes and derricks—adoption by reference, 10.4, 26.1 **ARC 5490C** 2107

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

- Notice, Deer hunting by residents, 106.1(1)“a,” 106.1(6), 106.2(5), 106.4(5), 106.6 **ARC 5509C** 2045
- Notice, Bobcat seasonal bag limit of one—addition of Delaware, Dubuque, and Jones Counties, 108.7 **ARC 5510C** 2049

NATURAL RESOURCES DEPARTMENT[561]

- Filed, Waivers, amendments to ch 10 **ARC 5516C** 2109
- Filed, Special nonresident deer and turkey hunting licenses—removal of legislative committee, 12.2, 12.4 to 12.7, 12.10 **ARC 5517C** 2113

PUBLIC HEALTH DEPARTMENT[641]

- Notice, Lead-based paint activities—licensure, criminal convictions, 70.2, 70.5(3) **ARC 5506C** 2050
- Notice, Emergency medical services—licensure, criminal convictions, 131.2, 131.3, 131.7(4)“u” **ARC 5507C** 2053

PUBLIC HEARINGS

- Summarized list 2015

PUBLIC SAFETY DEPARTMENT[661]

- Notice, Fire service training bureau—programs, services, fees, 53.2 **ARC 5501C** 2056
- Notice, Firefighter training and certification, amendments to ch 251 **ARC 5502C** 2058

REVENUE DEPARTMENT[701]

- Amended Notice, Broadband infrastructure grant exemption, 40.84, 53.28, 59.30 **ARC 5503C** 2062
- Notice, Bundled transactions, adopt ch 216; amend ch 231 **ARC 5504C** 2063
- Filed, Withholding—electronic filing requirements, deadline for furnishing statements, 46.3(3) **ARC 5518C** 2116

TRANSPORTATION DEPARTMENT[761]

- Filed, Logo signing, 118.2, 118.4, 118.5(1)“a” **ARC 5491C** 2119
- Filed, Lighting at primary-secondary intersections, 136.1, 136.2, 136.6 **ARC 5492C** 2121
- Filed, Definition of “vertical infrastructure,” 180.2, 180.3 **ARC 5493C** 2124
- Filed, International Registration Plan (IRP) for fleet vehicles, amendments to ch 500 **ARC 5494C** 2126
- Filed, Driver’s license—issuance, examination, 602.11(1), 602.12(1), 602.13(1), 604.50, 605.15(1), 605.26, 607.16 **ARC 5495C** 2135
- Filed, Sanctions, 615.3, 615.15, 615.21(1), 615.26, 615.38, 615.40, 615.43 to 615.45 **ARC 5496C** 2139
- Filed, Applications—training fellowships, special projects; public transit bureau; definition of “urban transit system,” 920.2, 920.3, 920.4(2) **ARC 5497C** 2143
- Filed, Capital match revolving loan fund; public transit infrastructure grant program, 923.1(2), 923.3(2), 924.2, 924.3, 924.10(4), 924.16(3) **ARC 5498C** 2145

PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2021

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
21	Friday, March 19, 2021	April 7, 2021
22	Friday, April 2, 2021	April 21, 2021
23	Friday, April 16, 2021	May 5, 2021

PLEASE NOTE:

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

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

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

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

NOTE: See also the Advisory Notice on page 2148.

EDUCATION DEPARTMENT[281]

Organization and operation, 1.4(1) IAB 2/24/21 ARC 5479C	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXIUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 9:30 to 10 a.m.
Procedures and petitions for rule making, 2.7(3), 2.12(2), 2.17(3), 2.18 to 2.20 IAB 2/24/21 ARC 5466C	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXIUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 9:30 to 10 a.m.
Waivers, amendments to ch 4 IAB 2/24/21 ARC 5465C	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXIUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 9:30 to 10 a.m.
Open enrollment of special education students, 17.6(3), 17.11 IAB 2/24/21 ARC 5463C	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXIUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 9 to 9:30 a.m.
Work-based learning programs, amendments to ch 48 IAB 2/24/21 ARC 5467C	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXIUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 10 to 10:30 a.m.
Supplementary weighting—English language learners, 60.6 IAB 2/24/21 ARC 5464C	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXIUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 8 to 8:30 a.m.
Financial management of categorical funding—custodial funds, 98.101 IAB 2/24/21 ARC 5462C	Room B100 Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/98069592361?pwd=VHRHQXIUOXF6ZnV4YjJ4Q2dwSzBVZz09	March 16, 2021 8:30 to 9 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Water quality certification, 60.2, 61.2 IAB 3/10/21 ARC 5508C	Video/conference call Contact Katie Greenstein Email: katie.greenstein@dnr.iowa.gov	March 30, 2021 3 to 4 p.m.
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INSURANCE DIVISION[191]

Fees, 5.56, 10.51, 20.13, 35.20(2)“a,” 50.12(3), 50.31, 50.32, 50.34, 50.71, 50.72, 100.18, 101.9, 102.3, 103.4 IAB 3/10/21 ARC 5499C	Via conference call Contact Tracy Swalwell Email: tracy.swalwell@iid.iowa.gov	April 15, 2021 10 to 11 a.m. (If requested)
Property and casualty insurance; self-study continuing education, 11.3(4)“b,” 11.5(7), 20.1, 20.2, 20.4 to 20.6, 20.11, 20.41, 20.43, 20.47(3), 20.71 IAB 3/10/21 ARC 5500C	Via conference call Contact Tracy Swalwell Email: tracy.swalwell.iid@iowa.gov	April 7, 2021 9 a.m. (If requested)
Long-term care insurance, amendments to chs 39, 72 IAB 2/24/21 ARC 5472C	Via conference call Contact Tracy Swalwell Email: tracy.swalwell@iid.iowa.gov	March 18, 2021 10 a.m. (If requested)

IOWA FINANCE AUTHORITY[265]

First amended 9 percent qualified allocation plan, 12.1(2), 12.2(2) IAB 2/24/21 ARC 5468C	Via telephone: 800.532.1215 Meeting link: teams.microsoft.com/l/meetup-join/19%3ameeting_NDUyZDI5YWMtOTUwMi00ZWZhLTNmMmItZWZkNDIiYmYzYzZl%40thread.v2/0?context=%7b%22Tid%22%3a%220e7d3946-58c8-40c4-b5c-a-04ab67de9145%22%2c%22Oid%22%3a%223429e620-e9ba-450b-bd99-342e0c4f8d6c%22%7d	March 16, 2021 10 to 11 a.m.
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LABOR SERVICES DIVISION[875]

Penalties for citations; waivers; rule making, amendments to chs 1, 3, 5 IAB 3/10/21 ARC 5511C	Dial: 312.626.6799 Meeting ID: 819 4968 6327 Passcode: 273126	April 15, 2021 11 a.m. (If requested)
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MEDICINE BOARD[653]

Licensure; criminal convictions, 9.3, 10.3, 10.4(2), 10.5(2), 17.4(1), 20.6, 20.20, 23.1, 25.25 IAB 2/24/21 ARC 5473C	Via Zoom: us02web.zoom.us/j/83065453200?pwd=NHllak42ckplaVNVUHREOEVvQ3J5QT09 Meeting ID: 830 6545 3200 Passcode: 103976 Phone: +1 312.626.6799 US (Chicago) (enter meeting ID and passcode)	March 16, 2021 1 to 2 p.m.
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NATURAL RESOURCE COMMISSION[571]

Deer hunting by residents, 106.1(1)“a,” 106.1(6), 106.2(5), 106.4(5), 106.6 IAB 3/10/21 ARC 5509C	Via video/conference call Contact Chris Ensminger Email: chris.ensminger@dnr.iowa.gov	March 30, 2021 1 to 2 p.m.
Bobcat seasonal bag limit of one—addition of Delaware, Dubuque, and Jones Counties, 108.7 IAB 3/10/21 ARC 5510C	Via video/conference call Contact Chris Ensminger Email: chris.ensminger@dnr.iowa.gov	March 30, 2021 12 noon to 1 p.m.

NURSING BOARD[655]

Licensure; criminal convictions,
3.1, 3.4(1), 3.5(1), 3.11, 4.6(7),
11.3(2)“f;” 18.1, 18.3
IAB 2/24/21 **ARC 5460C**

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

March 16, 2021
9 to 10 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Cosmetology arts and sciences
licensees, instructors, salons,
and schools—licensure,
criminal convictions, wallet
cards, 60.2, 60.4, 60.7(5), 60.8,
60.17(2), 61.2(5), 61.3(5), 61.5,
61.6, 61.8(2), 61.10, 65.2(12)
IAB 2/24/21 **ARC 5455C**

Via Webex:
[idph.webex.com/idph/j.php?MTID=
m3c42c40bcc17792e9c1cdbaa6408ed2b](https://idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b)
Password: GAhMjEu7*53
Via telephone: 408.418.9388
Access code: 146 783 2932

March 16, 2021
9 to 10 a.m.

Barbers, barber instructors,
barbershops, and barber
schools—licensure, criminal
convictions, wallet cards,
21.5(5), 21.9, 25.2(11)
IAB 2/24/21 **ARC 5450C**

Via Webex:
[idph.webex.com/idph/j.php?MTID=
m3c42c40bcc17792e9c1cdbaa6408ed2b](https://idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b)
Password: GAhMjEu7*53
Via telephone: 408.418.9388
Access code: 146 783 2932

March 16, 2021
9 to 10 a.m.

Marital and family therapists,
mental health counselors,
behavior analysts, and assistant
behavior analysts—licensure,
criminal convictions, wallet
cards, 31.2(1), 31.3(6)“a,”
31.8(3), 31.9(1), 31.11, 33.2(12)
IAB 2/24/21 **ARC 5442C**

Via Webex:
[idph.webex.com/idph/j.php?MTID=
m3c42c40bcc17792e9c1cdbaa6408ed2b](https://idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b)
Password: GAhMjEu7*53
Via telephone: 408.418.9388
Access code: 146 783 2932

March 16, 2021
9 to 10 a.m.

Chiropractic
physicians—licensure, criminal
convictions, wallet cards,
41.6(3), 41.8, 45.2(11)
IAB 2/24/21 **ARC 5448C**

Via Webex:
[idph.webex.com/idph/j.php?MTID=
m3c42c40bcc17792e9c1cdbaa6408ed2b](https://idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b)
Password: GAhMjEu7*53
Via telephone: 408.418.9388
Access code: 146 783 2932

March 16, 2021
9 to 10 a.m.

Dietitians—licensure, criminal
convictions, wallet cards, 81.9,
83.2(12)
IAB 2/24/21 **ARC 5452C**

Via Webex:
[idph.webex.com/idph/j.php?MTID=
m3c42c40bcc17792e9c1cdbaa6408ed2b](https://idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b)
Password: GAhMjEu7*53
Via telephone: 408.418.9388
Access code: 146 783 2932

March 16, 2021
9 to 10 a.m.

Funeral directors, funeral
establishments, and cremation
establishments—licensure,
criminal convictions, wallet
cards, 101.6(5), 101.7,
103.3(12)
IAB 2/24/21 **ARC 5449C**

Via Webex:
[idph.webex.com/idph/j.php?MTID=
m3c42c40bcc17792e9c1cdbaa6408ed2b](https://idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b)
Password: GAhMjEu7*53
Via telephone: 408.418.9388
Access code: 146 783 2932

March 16, 2021
9 to 10 a.m.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Hearing aid specialists—licensure, criminal convictions, wallet cards, 121.4, 121.6(7), 121.9, 124.2(16) IAB 2/24/21 ARC 5445C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Massage therapists—licensure, criminal convictions, wallet cards, 131.3(3), 131.6, 131.8, 134.2(11) IAB 2/24/21 ARC 5443C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Nursing home administrators—licensure, criminal convictions, wallet cards, 141.2, 141.7, 141.9, 144.2(13) IAB 2/24/21 ARC 5453C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Optometrists—licensure, criminal convictions, wallet cards, 180.2(1)“a,” 180.3(9), 180.5, 183.2(11) IAB 2/24/21 ARC 5458C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants—licensure, criminal convictions, wallet cards, 200.2(1), 200.7(6), 200.9, 202.2(11), 206.2(1), 206.9, 206.10, 209.2(11) IAB 2/24/21 ARC 5456C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Podiatrists, orthotists, prosthetists, and pedorthists—licensure, criminal convictions, wallet cards, 220.2(1), 220.7(5), 220.9, 221.3(1), 221.5(3), 221.6(3), 221.7, 224.2(12) IAB 2/24/21 ARC 5444C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Psychologists—licensure, criminal convictions, wallet cards, clinical records, 240.9, 240.10(4), 240.13, 242.2(12) IAB 2/24/21 ARC 5451C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Respiratory care practitioners, polysomnographic technologists, and respiratory care and polysomnography practitioners—licensure, criminal convictions, wallet cards, 261.2(1)“a,” 261.4, 261.8, 263.2(11) IAB 2/24/21 ARC 5446C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Social workers—licensure, criminal convictions, wallet cards, 280.3, 280.7, 280.9(6), 280.14(2), 283.2(11) IAB 2/24/21 ARC 5447C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Speech pathologists and audiologists—licensure, criminal convictions, wallet cards, 300.3, 300.9, 300.11, 304.2(11) IAB 2/24/21 ARC 5457C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Athletic trainers—licensure, criminal convictions, wallet cards, 351.2(1), 351.3(3), 351.7, 351.9, 353.2(12) IAB 2/24/21 ARC 5461C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.
Sign language interpreters and transliterators—licensure, criminal convictions, wallet cards, 361.2(4), 361.4, 361.5, 363.2(11) IAB 2/24/21 ARC 5459C	Via Webex: idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b Password: GAhMjEu7*53 Via telephone: 408.418.9388 Access code: 146 783 2932	March 16, 2021 9 to 10 a.m.

REVENUE DEPARTMENT[701]

Broadband infrastructure grant exemption, 40.84, 53.28, 59.30 IAB 3/10/21 ARC 5503C	Via Google Meet meet.google.com/rmc-ygmu-hqm Via telephone: +1 507.589.4983 PIN: 504 479 534#	March 30, 2021 10 to 11 a.m.
Geothermal heat pump tax credit, 42.47 IAB 2/24/21 ARC 5469C	Via video/conference call Contact Michael Mertens Email: michael.mertens@iowa.gov	March 16, 2021 9 to 10 a.m. (If requested)
Solar energy system tax credit, 42.48, 52.44, 58.22 IAB 2/24/21 ARC 5470C	Via video/conference call Contact Michael Mertens Email: michael.mertens@iowa.gov	March 16, 2021 10 to 11 a.m. (If requested)
Bundled transactions, adopt ch 216; amend ch 231 IAB 3/10/21 ARC 5504C	Via video/conference call Contact Tim Reilly Email: tim.reilly@iowa.gov	March 30, 2021 2 to 3 p.m. (If requested)

UTILITIES DIVISION[199]

Hazardous liquid pipelines and underground storage, amendments to ch 13 IAB 1/27/21 ARC 5403C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 15, 2021 1:30 to 4:30 p.m.
Electric utility service, amendments to ch 20 IAB 2/24/21 ARC 5475C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 13, 2021 1:30 to 4 p.m.

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
OMBUDSMAN[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
EARLY CHILDHOOD IOWA STATE BOARD[249]
ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]

Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Child Advocacy Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 5508C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Amended Notice of Intended Action

**Proposing rule making related to water quality certification requests
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 60, “Scope of Title—Definitions—Forms—Rules of Practice,” and Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455B.105 and 455B.173.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.105 and 455B.173.

Purpose and Summary

The proposed rule making is intended to streamline the process by which the Department of Natural Resources (Department) certifies that each United States Army Corps of Engineers (Corps) nationwide or regional Federal Water Pollution Control Act (the Act) Section 404 permit (Corps’s nationwide or regional permit), or other federal permit or license, meets Iowa’s water quality requirements. The proposed rule making achieves this by removing the requirement that the Department certify via rule making that each Corps’s nationwide or regional permit meets Iowa’s water quality requirements. Such certification is required by Section 401 of the Act, but certification via rule making is not. Certification by rule making is unnecessarily burdensome and can delay the applicability of the benefits of the Corps’s nationwide or regional permits to the regulated community. In addition, the rule making reorganizes and clarifies the list of potential conditions that may be included by the Department in state water quality certification of federal permits and licenses. This reorganization places the conditions together in one portion of the rule. Despite the removal of required rule making, the procedure for certifying the Corps’s federal permits will continue to provide opportunity for public comments.

Reason for Amendment of Notice of Intended Action

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 12, 2020, as **ARC 5134C**.

The Notice is being amended to align Section 401 water quality certification requests and certifications with changes to 40 CFR Part 121, which became effective September 11, 2020. These changes include substantive process changes as well as semantic changes. Specifically, the Commission is proposing the following additional changes: (1) a “prefiling meeting request” must be made 30 days before a certification request; (2) the decertification process proposed in the original Notice has been removed because the federal rules do not contemplate decertification; (3) all references to an “application” now refer to a “certification request”; and (4) all references to “water quality standards” now refer to “water quality requirements.” The new term “water quality requirement” is being added to the applicable list of definitions in rule 567—60.2(455B,17A). “Water quality requirement” is defined by reference to the corresponding federal definition.

Additionally, the proposed new subrule 61.2(6) includes two changes based on comments received during the original Notice’s comment period. One was from the Treated Lumber Council and the other was from the Iowa Environmental Council (IEC). In response to the comment by the IEC, this Amended

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Notice clarifies the public notice and comment process. In response to the comment by the Treated Wood Council, this Amended Notice adds “treated lumber” to the list of possible permit conditions.

Finally, all references to the Corps have been replaced with a broader “federal agency” or “federal permits and licenses” to clarify that the rule is actually applicable to all federal permits and licenses that require state water quality certifications.

Fiscal Impact

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

Jobs Impact

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

Waivers

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 561—Chapter 10.

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 April 2, 2021. Comments should be directed to:

Iowa Department of Natural Resources
Attn: Section 401 Water Quality Certification
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Fax: 515.725.8201
Email: Section401WQC@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Katie Greenstein via email at katie.greenstein@dnr.iowa.gov. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Dr. Greenstein prior to the hearing to facilitate an orderly hearing.

March 30, 2021
3 to 4 p.m.

Via video/conference call

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

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following new definition of "Water quality requirement" in rule **567—60.2(455B)**:

"Water quality requirement" means the same as defined in 40 CFR §121.1(n).

ITEM 2. Amend paragraph **61.2(2)"g"** as follows:

g. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. ~~United States Army Corps of Engineers (Corps) nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, and 52 as well as Corps regional permits 7, 27, 33, and 34 as revised through July 16, 2014, are certified pursuant to Section 401 of the Clean Water Act subject to the following Corps regional conditions and the state water quality conditions:~~

~~(1) Side slopes of a newly constructed channel will be no steeper than 2:1 and planted to permanent, perennial, native vegetation if not armored.~~

~~(2) Nationwide permits with mitigation may require recording of the nationwide permit and pertinent drawings with the registrar of deeds or other appropriate official charged with the responsibility for maintaining records of title to, or interest in, real property and may also require the permittee to provide proof of that recording to the Corps.~~

~~(3) Mitigation shall be scheduled prior to, or concurrent with, the discharge of dredged or fill material into waters of the United States.~~

~~(4) For newly constructed channels through areas that are unvegetated, native grass filter strips, or a riparian buffer with native trees or shrubs a minimum of 35 feet wide from the top of the bank must be planted along both sides of the new channel. A survival rate of 80 percent of desirable species shall be achieved within three years of establishment of the buffer strip.~~

~~(5) For single family residences authorized under nationwide permit 29, the permanent loss of waters of the United States (including jurisdictional wetlands) must not exceed 1/4 acre.~~

~~(6) For nationwide permit 46, the discharge of dredged or fill material into ditches that would sever the jurisdiction of an upstream water of the United States from a downstream water of the United States is not allowed.~~

~~(7) For projects that impact an outstanding national resource water, outstanding Iowa water, fens, bogs, seeps, or sedge meadows, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).~~

~~(8) For nationwide permits when the Corps' district engineer has issued a waiver to allow the permittee to exceed the limits of the nationwide permit, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).~~

~~(9) Heavy equipment shall not be used or operated within the stream channel. If in-stream work is unavoidable, it shall be performed in such a manner as to minimize the duration of the disturbance, turbidity increases, substrate disturbance, bank disturbance, and disturbance to riparian vegetation. This condition does not further restrict otherwise authorized drainage ditch maintenance activities (Iowa Section 401 Water Quality Certification condition).~~

~~Written verification by the Corps or 401 certification by the state is required for activities covered by these permits as required by the nationwide permits or the Corps, and the activities are allowed subject to the terms and conditions of the nationwide and regional permits. The department will maintain and periodically update a guidance document listing special waters of concern. This document will be provided to the Corps for use in determining whether preconstruction notices should be provided to the~~

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

~~department and other interested parties prior to taking action on applications for projects that would normally be covered by a nationwide or regional permit and not require a preconstruction notice under nationwide permit conditions.~~

ITEM 3. Adopt the following **new** subrule 61.2(6):

61.2(6) State water quality certification. This subrule describes the procedures the department will follow when processing certification requests for state water quality certification (certification) of federally issued licenses and permits pursuant to Section 401 of the Act, including but not limited to permits issued by the United States Corps of Engineers (Corps) pursuant to Section 404 of the Act.

a. General. The department shall receive, consider, and process certification requests in accordance with Section 401 of the Act.

b. Certification requests. Certification requests shall be made on the department's Section 401 Water Quality Certification Request form. This form is available on the department's website. Individual permits or licenses issued by federal agencies require submission of a prefiling meeting request and certification request to obtain certification. The prefiling meeting request must be submitted to the department at least 30 days prior to submitting the certification request.

c. Public notice. The department shall issue a public notice of a certification request. The public notice may be a joint public notice issued by a federal agency on behalf of the department. When there is no joint public notice issued by the federal agency, a public notice issued by the department will be provided on its website. The public notice shall solicit comments from the public regarding whether the proposed project complies with state water quality requirements in accordance with Section 401 of the Act. The public notice shall specify the procedure and time frame for submitting comments on the proposed project.

d. Public notice for new or renewed nationwide or regional permits. The department shall provide additional notice to the public of certification of new or renewed nationwide or regional permits issued by the Corps pursuant to Section 404 of the Act. The department shall provide such notice on its website. The public notice shall solicit comments from the public regarding whether the proposed permit complies with state water quality requirements in accordance with Section 401 of the Act. The public notice shall specify the procedure and time frame for submitting comments on the proposed certification.

e. Department action on certification request. After the close of the public comment period and consideration of comments received, the department may issue a certification letter which may include conditions necessary to ensure compliance with state water quality requirements, waive issuance of the certification, or deny certification in accordance with Section 401 of the Act.

f. Certification of federal permits or licenses may require conditions, which may include one or more of the following, to ensure water quality requirements are met:

(1) During construction and upon completion of the project, actions must be taken to prevent pollution affecting public health, fish, shellfish, wildlife, and recreation due to turbidity, pH, nutrients, suspended solids, floating debris, visible oil and grease, or other pollutants entering waters of the state;

(2) Equipment used in waters of the state shall be cleaned of all hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related, potentially hazardous substances before arriving on site. Wash water shall not be discharged into a water of the state;

(3) All cleared vegetative material shall be properly managed in such a manner that it cannot enter a water of the state and cause a violation of water quality requirements;

(4) All construction debris shall be properly managed in such a manner that it cannot enter a water of the state;

(5) Erosion shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality requirements;

(6) Riprap, treated lumber products, and temporary structures shall consist of clean material free of coatings of potentially hazardous substances. No asphalt or petroleum-based material shall be used as or included in material placed in any water of the state or within the high-water table;

(7) Stockpiled dredged materials on the shore shall be managed so that sediment is not discharged in a manner that causes a violation of water quality requirements;

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(8) Water quality monitoring will be required for Federal Energy Regulatory Commission hydropower projects at the baseline, construction and operational phases of the project;

(9) Hydraulically dredged material shall be managed to ensure the return water meets water quality requirements.

g. Duration of certification. The department's certification shall remain in effect until the expiration date of the applicable permit or license.

ARC 5505C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to subsidized guardianship program and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 204, "Subsidized Guardianship Program," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 45 CFR 1356.21 (Foster Care Maintenance Payments and Assistance Program), 42 U.S.C. 672 (Foster Care Maintenance Payments Program), and 42 U.S.C. 673 (Adoption and Guardianship Assistance Program).

Purpose and Summary

Current rules are proposed to be amended to lower the age for subsidized guardianship payments from 14 to 10 years of age. Rules are also proposed to be amended to provide for the extension of guardianship subsidies until the youth reaches age 21 under certain limited circumstances. A child who has a diagnosis of intellectual, mental or medical disability or who has not graduated from high school will be able to continue the subsidy until age 21.

Under the proposed amendments, there will no longer be an age distinction for younger siblings to be eligible for subsidized guardianship payments when those siblings reside in the same home as a child who meets eligibility requirements.

The proposed amendments will allow Department staff to suspend subsidized guardianship payments under certain conditions. The amendments specify when and how such suspensions would occur.

Additionally, minor changes have been proposed to improve the clarity of the rules.

Fiscal Impact

There will be a fiscal impact resulting from the lowering of the age requirement from 14 to 10 years of age. This should be offset by the additional IV-E dollars collected for payment and the exit of children from the foster care system. There will also be a financial impact resulting from allowing children to receive the subsidized guardianship payment until completion of high school. State dollars will be used to cover these costs. Based on data provided, the Department estimates a new cost of \$151,356 annually to serve 24 children on average per month. The Department realizes that costs for the program will rise by the number cited above. However, the Department also notes these costs would have been realized in either adoption or foster care. Due to this consideration, the impact of these costs will be minimal, if there is any impact at all to the overall Child Welfare budget.

HUMAN SERVICES DEPARTMENT[441](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 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 30, 2021. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

- ITEM 1. Amend rule ~~441—204.1(234)~~, definitions of “Child” and “Sibling group,” as follows:
- “Child” means a person who has not attained the age of 18. either a person less than 18 years of age or a person 18, 19, or 20 years of age who meets one or more of the following conditions:
1. Is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma.
 2. Is attending an instructional program leading to a high school equivalency diploma.
 3. Has been identified by the director of special education of the area education agency as a child requiring special education as defined in Iowa Code section 256B.2(1).

“Sibling group” means at least two children who are whole or half-siblings. A sibling group may include adopted children who have a common parent. ~~Stepsiblings are not included as part of the sibling group.~~

ITEM 2. Amend subrule 204.2(1) as follows:

204.2(1) General conditions of eligibility. The guardian named in a permanency order under Iowa Code section 232.104(2) “d”(1) or Iowa Code chapter 633 for a child who was previously in the custody of the department is eligible for subsidy when all of the following conditions exist:

- a. No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- b.* The child is either:
- (1) ~~14~~ Ten years of age or older and consents to the guardianship; or
 - (2) ~~No younger than 12 years of age and part~~ Part of a sibling group with a child aged ~~14~~ ten or older.
- c.* and *d.* No change.
- e.* A child ~~12 years of age or older and~~ who is part of a sibling group with a child ~~14~~ ten years of age or older may be eligible for subsidy if all criteria are met. The following conditions for the younger sibling shall also be met:
- (1) and (2) No change.

ITEM 3. Amend subrule 204.3(5) as follows:

204.3(5) *Determination of eligibility after age 18.* The department shall review the subsidy agreement when the child reaches the age of 17½ to determine whether the child is eligible to receive subsidy to the age of 21 to complete high school or equivalency or due to the child's physical, intellectual, or mental health disability.

- a.* and *b.* No change.
- c.* Documentation of the child's diagnosed disability shall be provided by the child's ~~parents~~ guardian to the department to make the determination of continued eligibility to the age of 21.
- d.* Upon the child's reaching the age of 18, the subsidy may continue until the child completes courses leading to a high school diploma or equivalency or reaches the age of 21. Documentation of school enrollment and completion shall be provided by the child's guardian.

ITEM 4. Amend rule 441—204.5(234) as follows:

441—204.5(234) *Parental liability.* These subsidy payments are considered foster care payments for purposes of child support recovery and as such create a support debt for the legally responsible parent or parents.

ITEM 5. Renumber rules **441—204.6(234)** to **441—204.9(234)** as **441—204.7(234)** to **441—204.10(234).**

ITEM 6. Adopt the following new rule 441—204.6(234):

441—204.6(234) *Determination of ongoing subsidy eligibility and suspension of subsidy payments.*

204.6(1) Eligibility for continuation of guardianship subsidy shall be evaluated when the department has good cause to suspect the guardian is not providing financial support, or is no longer legally responsible for the child. Good cause includes, but is not limited to, the following circumstances:

- a.* The child is placed in out-of-home care under Iowa Code chapter 232.
- b.* A person alleges the guardian is not providing financial support to the child.
- c.* A person other than the guardian is awarded legal custody of the child.
- d.* A person other than the guardian is appointed as the guardian of the child.
- e.* The child has applied for food assistance or other benefits.
- f.* The child has not resided with the guardian for the past 30 consecutive days.
- g.* The guardian is incarcerated.
- h.* The guardian is awaiting trial for criminal charges related to harm caused to a child in the home.

204.6(2) The department shall contact the child's guardian via letter, telephone, or electronic or other means and document such efforts if an evaluation is determined to be necessary.

204.6(3) If such an evaluation occurs, the child's guardian shall provide documentation of support, including receipts, to the department upon request.

204.6(4) Upon completion of the department's evaluation of the child's continued eligibility for guardianship subsidy, the department shall issue a written notice to the guardian documenting required ongoing actions by the guardian, including an expectation of continued cooperation by the guardian to provide documentation of ongoing support to the child at the request of the department.

HUMAN SERVICES DEPARTMENT[441](cont'd)

204.6(5) The department shall suspend guardianship subsidy payments if the guardian refuses to cooperate with any department evaluation designed to determine legal responsibility for the child or to determine whether the guardian is providing financial support for the child.

204.6(6) In the event the evaluation has determined the guardianship subsidy payment will be suspended, modified, or terminated, the department shall notify the guardian with proper notice, using Notice of Decision Form 470-5613.

204.6(7) When the child has resided out of the guardian's home for 30 consecutive days, the department shall request a renegotiation of the Guardianship Subsidy Agreement with the guardian to reduce or suspend payments as agreed to by the guardian.

ITEM 7. Amend renumbered rule 441—204.7(234) as follows:

441—204.7(234) Termination of subsidy. A Guardianship Subsidy Agreement shall remain in effect until the subsidy is terminated based on one of the grounds listed in this rule. The subsidy shall terminate when any of the following occur, and a notice shall be sent which states the reason for the termination:

1. The child reaches the age of 18, unless the department determines that the subsidy may continue until the child reaches the age of ~~19~~ 21 to facilitate the child's completion of high school or a high school equivalency diploma.

2. to 10. No change.

ARC 5499C

INSURANCE DIVISION[191]

Notice of Intended Action

Proposing rule making related to fees and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 5, "Regulation of Insurers—General Provisions," Chapter 10, "Insurance Producer Licenses and Limited Licenses," Chapter 20, "Property and Casualty Insurance," Chapter 35, "Accident and Health Insurance," Chapter 50, "Regulation of Securities Offerings and Those Who Engage in the Securities Business," Chapter 100, "Sales of Cemetery Merchandise, Funeral Merchandise and Funeral Services," Chapter 101, "Burial Sites and Cemeteries," Chapter 102, "Iowa Retirement Facilities," and Chapter 103, "Residential and Motor Vehicle Service Contracts," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 502.304A, 502.321G, 502.410, 509A.15, 511.24, 512B.24, 512B.25, 515.147, 515A.6, 515A.10, 515F.8, 520.12, 521.18, 522A.5, 522E.4, 523A.204, 523A.501, 523A.502A, 523A.812, 523A.814, 523C.3, 523C.4, 523C.24, 523D.2A, 523I.808 and 523I.813.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 502, 509A, 511, 512B, 515, 515A, 515F, 520, 521, 522A, 522E, 523A, 523C, 523D and 523I.

Purpose and Summary

The Division is moving the licensing and related fees from statute to rules in order to permit more regular updating of the fee amounts. The proposed fee amounts are the same amount as currently set in statute except for following fees: (1) the examination fee for perpetual care cemeteries is increasing from \$5 per certificate to \$10 per certificate, (2) a late fee for preneed sellers' and sales agents' filing of annual reports is being added, (3) a late fee for perpetual care cemeteries' filing of annual reports is being added, and (4) the motor service contract fee is being reduced.

INSURANCE DIVISION[191](cont'd)

Examination fee: The Division is proposing to increase the examination fee from \$5 to \$10. This fee was established in 2005 with the enactment of the Iowa Cemetery Act. These fees are charged to perpetual care cemeteries. The cemeteries are allowed to assess the purchaser of burial plots for these fees. Annual revenues are \$23,000. These fees are deposited into the Enforcement Fund, which is used in part to provide funds for the operating of cemetery receiverships.

Late fees: The Division proposes to add a \$5 per day late fee for preneed sellers, sales agents, and perpetual care cemeteries that file their annual report after the filing deadline. The Division has been unable to secure reasonable compliance with these filing requirements with increased noncompliance over the past three years. This increasing noncompliance has taken two forms: more filers filing after the deadline and more filers requiring more outreach from the Division. Under the current statute, requests are followed by reminders escalating to subpoenas, and some noncompliance has been referred to the Division's Enforcement Bureau. The Enforcement Bureau can pursue legal actions including warning letters, subpoenas, and formal statements of charges. The goal of the new late fees is to bring more filers into compliance without the additional staff time and expense currently expended seeking compliance.

Motor vehicle fee: The motor vehicle service contract fee is being reduced from \$50 to \$35 per contract. Due to new legislation, the entire motor vehicle fee structure was modified. The calculation of fees that changed in 2019 resulted in a \$40,000 increase of revenue in 2020. The increase of revenue is attributable to more than new market entrants. The Division is decreasing the fee in order to be revenue-neutral taking into account the other changes made in 2019.

The Division has proposed changes to the statutes in its omnibus bill this year. Setting the fee amounts by rule will permit the Division to periodically review and update the amounts as part of its ongoing five-year review of rules.

Fiscal Impact

The examination fee increase from \$5 to \$10 is expected to double the annual revenues, which are currently approximately \$23,000. The change to examination fees ties into section 66 of the Division's omnibus bill that eliminates the \$50,000 cap in the Enforcement Fund in Iowa Code chapter 523I, which is used to fund receiverships. This cap has been in place since 2005. The Division currently has three cemetery receiverships open and closed an additional two in the previous year. Each receivership is unique, but the costs can easily run into the hundreds of thousands of dollars. Unfortunately, the trend of perpetual care cemeteries facing severe financial problems will only continue. Increasing the examination fee to \$10 and eliminating the cap helps ensure sufficient funds to successfully run these receiverships. The goal of imposing a late fee is to encourage compliance with the filing deadline. If it has its intended effect, the fiscal impact will be zero.

In fiscal year 2019, the motor vehicle service contract fee brought in \$48,600. In fiscal year 2020, \$89,613 was brought in. New companies accounted for 12 percent of those funds in 2020. The Division anticipates a reduction in revenue from 2020 but overall anticipates the fee change to be revenue-neutral when considering the other fee changes from 2019.

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 Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

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 Division no later than 4 p.m. on April 15, 2021. Comments should be directed to:

INSURANCE DIVISION[191](cont'd)

Tracy Swalwell
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6549
Email: tracy.swalwell@iid.iowa.gov

Public Hearing

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

April 15, 2021
10 to 11 a.m.

Via conference call

A conference call number will be available prior to the hearing on the Division's web page at iid.iowa.gov/hearings. Persons wishing to attend the hearing may also contact Tracy Swalwell for hearing information. Persons who wish to make oral comments at the hearing must submit a request to Tracy Swalwell prior to the hearing to facilitate an orderly hearing. Persons may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

The public hearing will be canceled without further notice if no public hearing is requested by 12 noon on April 13, 2021.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** rule 191—5.56(511,512B,515,520,521):

191—5.56(511,512B,515,520,521) Fees.

5.56(1) Domestic and foreign companies. When not otherwise provided, a foreign or domestic insurance company doing business in this state shall pay to the commissioner of insurance the following fees:

- a. For filing an application to do business, or an application to renew a certificate of authority, \$50.
- b. For issuing a certificate of authority to do business in this state, or for renewing a certificate, \$50.
- c. For filing amended articles of incorporation, \$50.
- d. For issuing an amended certificate of authority, \$25.
- e. For affixing the official seal to any paper filed with the division, \$10.

5.56(2) Fraternal benefit societies.

a. When filing an annual report pursuant to Iowa Code section 512B.24, a fraternal benefit society shall pay a fee of \$50 to the commissioner.

INSURANCE DIVISION[191](cont'd)

b. A society that fails to timely file an application for renewal shall pay a late fee of \$500 to the treasurer of state pursuant to Iowa Code section 512B.25.

5.56(3) *Reciprocal or interinsurance insurer.* A reciprocal or interinsurance insurer that fails to timely file an application for renewal pursuant to Iowa Code section 520.12 shall pay an administrative fee of \$500 to the treasurer of state.

5.56(4) *Articles of merger or consolidation.* The fee for filing articles of merger or consolidation with the division is \$50.

This rule is intended to implement Iowa Code sections 511.24, 512B.24, 512B.25, 515.147, 520.12, and 521.18.

ITEM 2. Amend subparagraph **10.51(1)“e”(2)** as follows:

(2) To obtain a vehicle rental counter employee limited license, an individual must successfully complete an examination, ~~and~~ submit to the division a completed vehicle rental counter employee limited license application, and pay an application fee of \$50 pursuant to Iowa Code section 522A.3. The vehicle rental counter employee limited license application form is available on the division's website. A third-party licensing agency or a rental car company may submit the application, attestation of examination, and application fee for an individual.

ITEM 3. Amend subparagraph **10.51(2)“d”(1)** as follows:

(1) To obtain a portable electronics insurance limited license, a portable electronics vendor must submit to the division a completed portable electronics insurance limited license application and ~~the appropriate an application fee, as required by Iowa Code section 522E.3~~ of the lesser of \$50 per endorsee at a location of the vendor or \$500 per location. A maximum fee of \$5,000 shall apply to licensure of a portable electronics vendor with multiple locations.

ITEM 4. Amend subparagraph **10.51(2)“e”(3)** as follows:

(3) The portable electronics insurance limited licensee must complete and return to the division the completed renewal form and the applicable fee, ~~as required by Iowa Code section 522E.5,~~ on or before the expiration date of the portable electronics insurance limited license, or the licensee's portable electronics insurance limited license will expire and the authority of all endorseees to sell under the portable electronics insurance limited license also will expire. The renewal fee is the same as the application fee set forth in subparagraph 10.51(2)“d”(1).

ITEM 5. Adopt the following **new** rule 191—20.13(515A,515F):

191—20.13(515A,515F) Rating and advisory organization fees.

20.13(1) The annual fee for a rating organization license is \$100.

20.13(2) The annual fee for an advisory organization is \$100.

This rule is intended to implement Iowa Code sections 515A.6, 515A.10, and 515F.8.

ITEM 6. Amend paragraph **35.20(2)“a”** as follows:

a. An application for a certificate of registration shall contain the following:

(1) to (3) No change.

(4) A business plan, including a copy of all contracts or other instruments which the 28E agreement proposes to make with or sell to its members, a copy of its plan description and the printed matter to be used in the solicitation of members; ~~and~~

(5) A current list of all participating public entities; ~~and~~

(6) Payment of a \$100 filing fee. A penalty of \$15 per day shall be assessed for failure to comply with the filing requirement of Iowa Code section 509A.15(1)“a.”

ITEM 7. Amend subrule 50.12(3) as follows:

50.12(3) Renewals, amendments, and withdrawal requests.

a. A registered agent of a FINRA member broker-dealer shall submit all renewals, renewal fees, amendments to Form U-4, and withdrawal requests to CRD. A withdrawal request shall be made by filing an accurate and complete Form U-5 with CRD. A registered agent of a FINRA member broker-dealer shall submit a fee of \$40 when filing a renewal of registration or change of registration as an agent.

INSURANCE DIVISION[191](cont'd)

b. A registered agent of a non-FINRA member broker-dealer shall submit all renewals, renewal fees, amendments to Form U-4, and withdrawal requests to the administrator. A withdrawal request shall be made by filing an accurate and complete Form U-5 with the administrator. A registered agent of a non-FINRA member broker-dealer shall submit a fee of \$40 when filing a renewal of registration or change of registration as an agent.

ITEM 8. Amend paragraph **50.31(1)“b”** as follows:

b. ~~Remitting the a \$100 filing fee to IARD pursuant to Iowa Code section 502.410(3).~~

ITEM 9. Amend paragraph **50.31(3)“b”** as follows:

b. ~~Remitting the a \$100 filing fee to IARD as required pursuant to Iowa Code section 502.410(3).~~

ITEM 10. Amend rule **191—50.31(502)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 502.102(8), ~~and~~ 502.406, and 502.410(3).

ITEM 11. Amend paragraph **50.32(2)“b”** as follows:

b. ~~If applicable, the a \$30 fee required pursuant to Iowa Code section 502.410(4).~~

ITEM 12. Amend paragraph **50.32(3)“b”** as follows:

b. ~~If applicable, remitting the a \$30 filing fee to CRD as required pursuant to Iowa Code section 502.410(4).~~

ITEM 13. Amend subrule 50.32(5) as follows:

50.32(5) *Updates, amendments, withdrawals and terminations.* The investment adviser representative is under a continuing obligation to update information provided on Form U-4 and shall remit fees as follows:

a. Any amendment to information provided on Form U-4 must be filed with CRD within 30 days of the event causing the required amendment, and the investment adviser representative shall remit a \$30 filing fee to CRD; and

b. No change.

ITEM 14. Amend rule **191—50.32(502)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 502.102(8), ~~and~~ 502.406, and 502.410(4).

ITEM 15. Amend subrule 50.34(1) as follows:

50.34(1) *Notice filing.* The notice filing for a federal covered investment adviser pursuant to Iowa Code section 502.405 shall be filed with IARD on an executed Form ADV. A notice filing of a federal covered investment adviser shall be deemed filed for purposes of this subrule when Form ADV and ~~the~~ a fee of \$100 required pursuant to Iowa Code section 502.410(5) are received by IARD.

ITEM 16. Amend subrule 50.34(3) as follows:

50.34(3) *Renewal.* The annual renewal of the notice filing for a federal covered investment adviser pursuant to Iowa Code section 502.405 shall be filed with IARD. The renewal of the notice filing shall be deemed filed for purposes of this subrule when ~~the~~ a \$100 fee required pursuant to Iowa Code section 502.410(5) is accepted by IARD.

ITEM 17. Amend rule **191—50.34(502)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 502.405 and 502.410(5).

ITEM 18. Adopt the following new rule 191—50.71(502):

191—50.71(502) Fee for securities registration filings under Iowa Code section 502.304A.

50.71(1) The fee to register a security pursuant to Iowa Code section 502.304A is \$100.

50.71(2) The fee for registering a person as an agent of an issuer under Iowa Code section 502.304A is \$10.

This rule is intended to implement Iowa Code section 502.304A.

INSURANCE DIVISION[191](cont'd)

ITEM 19. Adopt the following **new** rule 191—50.72(502):

191—50.72(502) Fee for registration filings under Iowa Code section 502.521G. The administrator shall charge a nonrefundable filing fee of \$250 for a registration statement filed by an offeror pursuant to Iowa Code sections 502.321B and 502.321G.

This rule is intended to implement Iowa Code sections 502.321B and 502.521G.

ITEM 20. Rescind rule 191—100.18(523A) and adopt the following **new** rule in lieu thereof:

191—100.18(523A) Fees.

100.18(1) Preneed seller.

a. License fee. An applicant for a preneed seller license shall remit to the division a license fee of \$25, plus \$15 for each criminal history request made on each individual for whom a criminal history is required by Iowa Code section 523A.501(3). A preneed seller shall remit to the division a fee of \$15 annually thereafter to renew the preneed seller license.

b. Annual report and examination fee. A preneed seller filing an annual report shall remit to the division a fee of \$20 per purchase agreement sold during the year covered by the annual report. This fee consists of a \$10 annual report filing fee pursuant to Iowa Code section 523A.204(2) and a \$10 examination fee pursuant to Iowa Code section 523A.814. The commissioner may impose a late fee of up to \$5 per day for a preneed seller filing an annual report after April 15 pursuant to Iowa Code section 523A.204(4), with a maximum late fee not to exceed \$500.

100.18(2) Sales agent.

a. License fee. An applicant for a sales agent license shall remit to the division a license fee of \$10, plus \$15 for a criminal history request as required by Iowa Code section 523A.502(4). A sales agent shall remit to the division a fee of \$10 annually thereafter to renew the sales agent license.

b. Annual report late fee. The commissioner may impose a late fee of up to \$5 per day for a sales agent filing an annual report after April 15 pursuant to Iowa Code section 523A.502A(3), with a maximum late fee not to exceed \$500.

100.18(3) Manner of payment. Fees shall be paid by electronic payment as permitted by the commissioner.

100.18(4) Nonrefundable. Fees are not refundable.

100.18(5) Insurance division regulatory fund. The commissioner shall allocate annually, from the annual report filing fees paid pursuant to Iowa Code section 523A.204(2), \$2 for each purchase agreement reported on a preneed seller's annual report for deposit to the insurance division regulatory fund established pursuant to Iowa Code section 523A.812.

This rule is intended to implement Iowa Code chapter 523A.

ITEM 21. Amend rule 191—101.9(523I) as follows:

191—101.9(523I) Filing annual reports.

101.9(1) Annual reports filed by perpetual care cemeteries.

a. Each year between January 1 and April 30, perpetual care cemeteries shall file a complete and accurate annual report for the prior reporting period, in the form and manner required by the division. For purposes of Iowa Code section 523I.813 ~~as amended by 2016 Iowa Acts, House File 2394, section 13,~~ and of this rule, "reporting period" means a calendar year.

b. This rule shall apply to all perpetual care cemeteries submitting annual reports after January 1, 2017, providing information for the 2016 calendar year reporting period.

101.9(2) Forms and instructions. Forms and instructions for perpetual care cemeteries filing the annual report required by Iowa Code section 523I.813 ~~as amended by 2016 Iowa Acts, House File 2394, sections 12 and 13,~~ can be found on the division's ~~Web site~~ website, www.iid.iowa.gov.

101.9(3) Fees.

a. A perpetual care cemetery shall submit with its annual report an examination fee in an amount equal to \$10 for each certificate of interment rights issued during the time period covered by the annual report.

INSURANCE DIVISION[191](cont'd)

b. The commissioner may impose a late fee of up to \$5 per day for a perpetual care cemetery filing an annual report after April 30 pursuant to Iowa Code section 523I.813(3), with a maximum late fee not to exceed \$500.

ITEM 22. Amend rule 191—102.3(523D) as follows:

191—102.3(523D) Forms, and filings, and fees.

102.3(1) Copies of all required forms and instructions are available on the ~~commissioner's Web site~~ division's website, www.iid.iowa.gov.

102.3(2) All filings, fees and payments shall be made as directed by the commissioner. Instructions are available at the ~~commissioner's Web site~~ division's website, www.iid.iowa.gov.

102.3(3) A provider shall submit with its annual certification a fee in the amount of \$100.

ITEM 23. Amend rule 191—103.4(523C) as follows:

191—103.4(523C) Forms, and instructions, and fees. ~~Instructions for license applications, fees, forms and other filings, and copies of all required forms are available on the division's website.~~

103.4(1) Forms and instructions. Instructions for license applications, fees, forms and other filings, and copies of all required forms are available on the division's website.

103.4(2) License fee. A service company shall submit with its application a fee in the amount of \$500.

103.4(3) License renewal fee. A service company shall submit with its renewal application renewal fees as follows:

a. A service company shall pay a license renewal fee in the amount of \$500.

b. If applicable, a fee in the amount of 3 percent of the aggregate amount of payments the licensee received for the sale or issuance of residential service contracts in this state during the preceding fiscal year, provided that such fee shall be no less than \$100 and no greater than \$50,000.

103.4(4) Motor vehicle contract form fee. A motor vehicle service company shall submit a fee in the amount of \$35 for each motor vehicle service contract form submitted in its application and any renewal application, as provided in Iowa Code section 523C.3(1) "f."

103.4(5) Oversight fund. The maximum amount of fees deposited into the service company oversight fund shall not exceed \$500,000.

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INSURANCE DIVISION[191]

Notice of Intended Action

Proposing rule making related to property casualty insurance and producer continuing education and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 11, "Continuing Education for Insurance Producers," and Chapter 20, "Property and Casualty Insurance," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 505.8, 515.115, 515F.37 and 522B.18.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 505, 515, 515F and 522B.

INSURANCE DIVISION[191](cont'd)

Purpose and Summary

The proposed amendments are a result of the Division's review of rules. The amendments to Chapter 11 remove the cap on self-study continuing education for insurance producers. This change will effectively make the classroom continuing education requirement an option.

These amendments update Chapter 20 by removing unnecessary language, correcting statute references, and conforming to current practice.

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 Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

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 Division no later than 4 p.m. on April 7, 2021. Comments should be directed to:

Tracy Swalwell
Iowa Insurance Division
1963 Bell Ave, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6549
Email: tracy.swalwell@iid.iowa.gov

Public Hearing

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

April 7, 2021
9 a.m.

Via conference call

A conference call number will be available prior to the hearing on the Division's web page at iid.iowa.gov/hearings. Persons wishing to attend the hearing may also contact Tracy Swalwell for hearing information. Persons who wish to make oral comments at the public hearing must submit a request to Tracy Swalwell prior to the public hearing to facilitate an orderly hearing. Persons will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

The public hearing will be canceled without further notice if no public hearing is requested by 12 noon on April 5, 2021.

INSURANCE DIVISION[191](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 actions are proposed:

ITEM 1. Amend paragraph **11.3(4)“b”** as follows:

b. A producer may receive ~~up to 18~~ CE credits for self-study courses during a CE term that do not meet the definition of paragraph 11.3(4)“a” if the producer:

(1) and (2) No change.

ITEM 2. Amend subrule 11.5(7) as follows:

11.5(7) A CE course must be offered for a minimum of one credit. Fractional credits will not be awarded. The total credit that may be awarded for a CE course is limited to 36 credits, ~~except that credit for a self-study course as defined in paragraph 11.3(4)“b” is limited to 18 CE credits.~~

ITEM 3. Amend rule 191—20.1(505,509,514A,515,515A,515F) as follows:

191—20.1(505,509,514A,515,515A,515F) General filing requirements for filing rates and forms.

20.1(1) Insurance companies required to file rates or forms with the division shall submit required rate and form filings and any fees required for the filings electronically using the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing (SERFF). Insurance companies must comply with the division's requirements for submissions, including both the Iowa general instructions and the specific submission requirements for the type of insurance for which the companies are submitting forms or rates, as set out on the SERFF Web site at www.serff.org website at serff.com.

20.1(2) No change.

ITEM 4. Amend rule 191—20.2(505) as follows:

191—20.2(505) Objection to form filing.

20.2(1) No change.

20.2(2) Within 20 days after receipt of the request for a hearing, the commissioner will hold a hearing to consider the objection to the filing. The commissioner will provide not less than 10 days' written notice of the time and place of the hearing to the person or association filing the ~~demand~~ request, to the filing insurer or organization, and to any other person requesting notice. The commissioner may suspend or postpone the effective date of the filing pending the hearing. Upon consideration of the information received at the hearing, the commissioner may determine whether or not to approve the filing.

ITEM 5. Amend subrule 20.4(3) as follows:

20.4(3) A form filing which has not been previously approved, disapproved or questioned shall be deemed approved on or after 30 days from ~~its receipt~~ the date that all necessary requirements are submitted to SERFF.

ITEM 6. Amend rule 191—20.5(515A) as follows:

191—20.5(515A) Rate or manual rule filing.

20.5(1) Every insurer shall determine and file its final rates with the commissioner pursuant to provisions of Iowa Code chapter 515F, except for insurers of workers' compensation who are specifically excluded by Iowa Code section ~~515F.5~~ 515F.3(2) and residual market mechanisms.

a. Advisory organizations, defined in Iowa Code section 515F.2 and licensed pursuant to Iowa Code section 515F.8, may file on behalf of their member and subscriber companies prospective loss costs, supplementary ~~rate~~ rating information and supporting information as defined in Iowa Code section 515F.2. Advisory organization filings shall be filed and made effective in accordance with the provisions

INSURANCE DIVISION[191](cont'd)

of Iowa Code sections 515F.4 to 515F.6 or 515F.23 to 515F.25 that apply to the filing and approval of rates and supplementary rating information.

b. An insurer may satisfy its obligation to make rate filings by becoming a participating insurer of a licensed advisory organization that makes reference filings of advisory prospective loss costs and by authorizing the commissioner to accept such filings on its behalf. The insurer's rates shall be the prospective loss costs filed by the advisory organization which have been put into effect in accordance with paragraph 20.5(1) "a," combined with the loss cost adjustments which are filed in accordance with ~~this paragraph:~~ 20.5(1) "a."

c. An insurer may satisfy its obligation to make filings of supplementary rating information by becoming a participating insurer of a licensed advisory organization ~~which that~~ makes such filings and by authorizing the commissioner to accept such filings on its behalf, subject to any modifications filed by the insurer.

d. No change.

20.5(2) No change.

20.5(3) Insurers making filings ~~in~~ on their own behalf and advisory organizations making a filing on behalf of an insurer shall identify each page filed by printing, typing or stamping their own name thereon.

20.5(4) If a company filing rates used the manuals of an advisory organization in its filings, any portion of the manuals of the advisory organization ~~which that~~ will not be followed by the filing must be clearly shown as deleted or amended by use of an appropriately numbered exception page.

20.5(5) For residual market mechanisms, insurers making filings ~~in~~ on their own behalf shall identify the submission as an independent filing or a deviation from the ~~bureau filing~~ previously filed form, rate, or rule. A deviation filing is a submission which represents modification of a form or rate or rule previously filed by an authorized rating organization or advisory organization on behalf of its member and subscriber companies. If an insurer has previously filed forms modifying coverage provided by the applicable standard ~~or bureau~~ forms, such fact should be noted in the rate filing.

ITEM 7. Amend rule 191—20.6(515A) as follows:

191—20.6(515A) Exemption from rate filing requirement.

20.6(1) No change.

20.6(2) If the commissioner finds that a proposed rate represents a classification for which credible and homogeneous statistical experience does not exist and cannot be analyzed using standard actuarial techniques to produce a statistically significant average rate for the individual risks within the classification, the commissioner may exempt the ~~proposed rate insurer~~ insurer from the filing requirement for that proposed rate.

20.6(3) An insurer shall maintain statistical records of the experience and expenses attendant upon the risks covered by any rate exempted by the commissioner from the filing requirement. The insurer may supplement statistical information ~~with information~~ filed with the commissioner with information by an advisory organization licensed pursuant to Iowa Code section 515F.8.

This rule is intended to implement Iowa Code section 515A.4(6).

ITEM 8. Amend rule 191—20.11(515) as follows:

191—20.11(515) Exemption from form and rate filing requirements.

20.11(1) The following lines of insurance shall be exempt from the form filing requirements of Iowa Code section 515.102:

a. Aircraft hull and aviation liability.

b. Difference-in-conditions.

c. Kidnap-ransom.

d. Manuscript policies and endorsements issued to not more than two insureds in Iowa.

e. Political risk.

f. Reinsurance.

g. Terrorism.

INSURANCE DIVISION[191](cont'd)

h. War risk.

i. Weather insurance .

20.11(2) No change.

20.11(3) An insurer shall, within 30 days of the commissioner's request, provide the commissioner with any of the information which is exempted from form and rate filing requirements.

ITEM 9. Amend rule 191—20.41(515,515F) as follows:

191—20.41(515,515F) Purpose. This division is intended to implement and interpret ~~2003 Iowa Acts, chapter 119,~~ Iowa Code sections 515F.30 to 515F.38 for the purpose of establishing procedures and requirements for a mandatory risk-sharing facility for basic property insurance coverage. This division is also intended to encourage improvement of and reasonable loss prevention measures for properties located in Iowa and to further orderly community development.

ITEM 10. Amend rule 191—20.43(515,515F), introductory paragraph, as follows:

191—20.43(515,515F) Definitions. In addition to the definitions of Iowa Code sections 514F.2 and 515F.32 and rule 191—20.1(505,509,514A,515,515A,515F), the following definitions apply:

ITEM 11. Amend rule **191—20.43(515,515F)**, definition of "Iowa FAIR Plan," as follows:

"*Iowa FAIR Plan Association*" or "*the Plan*" means the nonprofit, unincorporated mandatory risk-sharing facility established and governed by Iowa Code sections 515F.30 through 515F.38 and this division to provide for basic property insurance.

ITEM 12. Amend subrule 20.47(3) as follows:

20.47(3) The governing committee may designate, ~~with the approval of the commissioner, a rate service organization as defined in Iowa Code chapter 515F, an independent inspection firm~~ to make inspections as required under the Plan and to perform such other duties as may be authorized by the governing committee.

ITEM 13. Amend rule **191—20.71(515)**, definition of "ISO," as follows:

"*ISO*" means the ~~insurance services office~~ Insurance Services Office, Inc.

ARC 5511C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Proposing rule making related to penalties for citations and providing an opportunity for public comment

The Labor Commissioner hereby proposes to amend Chapter 1, "Description of Organization and Procedures Before the Division," Chapter 3, "Posting, Inspections, Citations and Proposed Penalties," and Chapter 5, "Rules of Practice for Variances, Limitations, Variations, Tolerances and Exemptions," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 88.5 and 91.6.

State or Federal Law Implemented

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

Purpose and Summary

This rule making proposes mandatory, annual cost-of-living adjustments in order to align Iowa's penalties for occupational safety and health citations with the corresponding federal penalties. The proposed amendments also correct obsolete references; remove obsolete language; make procedural

LABOR SERVICES DIVISION[875](cont'd)

changes to align the rules with amendments to the Administrative Procedures Act enacted in 2020 Iowa Acts, House File 2389; and set forth a new set of procedures for petitions for rule making.

Fiscal Impact

This proposed Notice would cause about a 1 percent increase in OSHA civil penalties that are deposited into the General Fund.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 1 or Chapter 5 as appropriate.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on April 15, 2021. Comments should be directed to:

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

Public Hearing

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

April 15, 2021
11 a.m.

Dial: 312.626.6799
Meeting ID: 819 4968 6327
Passcode: 273126

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 1.17(8) as follows:

1.17(8) To the ~~citizens' aide~~ ombudsman under Iowa Code section ~~2C.9(3)~~ 2C.9(4).

LABOR SERVICES DIVISION[875](cont'd)

ITEM 2. Amend paragraph **1.18(1)“i”** as follows:

- i.* List of private employment agencies licensed pursuant to Iowa Code chapter ~~95~~ 94A.

ITEM 3. Amend paragraph **1.42(2)“a”** as follows:

- a.* Copies of materials are not required to be submitted if the division follows Iowa Code ~~section 89.5(4)~~ sections 89.5(3) and 89A.3(5).

ITEM 4. Amend subrule 1.46(1) as follows:

1.46(1) *Compilation, indexing, public inspection.* The division will maintain an official, current, and dated compilation that is indexed by subject, containing all of its general statements of policy within the scope of Iowa Code section ~~17A.2(10)“a,” “c,” “f,” “g,” “h,” “k.”~~ 17A.2(11)“a,” “c,” “f,” “g,” “h,” “k.” Each addition to, change in, or deletion from the official compilation must also be dated, indexed, and a record thereof kept. Except for those portions containing rules governed by Iowa Code section ~~17A.2(7)“f,”~~ 17A.2(11)“f,” or otherwise authorized by law to be kept confidential, the compilation must be made available for public inspection and copying.

ITEM 5. Amend **875—Chapter 1**, Division VII, title, as follows:

DIVISION VII
WAIVERS AND VARIANCES FROM ADMINISTRATIVE RULES

ITEM 6. Amend subrules 1.101(1) and 1.101(2) as follows:

1.101(1) These rules provide general procedures for waivers ~~and variances~~ from division rules. Specific waiver ~~or variance~~ procedures must be followed when applicable. Except where specific statutory authority is granted, no waiver ~~or variance~~ may be granted from a requirement or duty imposed by statute or when granting a waiver ~~or variance~~ would cause a denial of federal funds or be inconsistent with federal statute or regulation. Any waiver ~~or variance~~ must be consistent with statute. These waiver ~~and variance~~ procedures do not apply to rules that merely define the meaning of a statute or other provision of law unless the division possesses delegated authority to bind the courts with its rules.

1.101(2) Waivers ~~or variances~~ of rules may be granted either in response to a petition for waiver ~~or variance~~ filed within a contested case proceeding, or in response to a petition filed in the absence of a contested case proceeding.

ITEM 7. Amend rule 875—1.102(17A,91) as follows:

875—1.102(17A,91) Petitions. If the petition for waiver ~~or variance~~ relates to a pending contested case, the petition shall be filed in the contested case proceeding. Other petitions must be mailed to Labor Commissioner, Division of Labor Services, 150 Des Moines Street, Des Moines, Iowa 50309. In either case, the petition shall include the following information where applicable:

1.102(1) The name, address, case file number or state identification number, and telephone number of the person requesting the waiver ~~or variance~~ and the person’s representative, if any.

1.102(2) No change.

1.102(3) The specific waiver ~~or variance~~ requested, including the precise scope and time period for the waiver or variance.

1.102(4) The relevant facts the petitioner believes justify a waiver ~~or variance~~.

1.102(5) A description of any prior contacts between the division and the petitioner relating to the subject matter of the proposed waiver ~~or variance~~, including but not limited to a list or description of division licenses, registrations, or permits held by the petitioner, and any notices of violation, citations, contested case hearings, or investigative reports relating to the subject matter of the proposed waiver ~~or variance~~ within the last five years.

1.102(6) The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the grant of a waiver ~~or variance~~.

1.102(7) and 1.102(8) No change.

1.102(9) A signed release of information authorizing persons with knowledge regarding the request to furnish the division with information pertaining to the waiver ~~or variance~~.

LABOR SERVICES DIVISION[875](cont'd)

1.102(10) No change.

ITEM 8. Amend rule 875—1.104(17A,91) as follows:

875—1.104(17A,91) Review. Each petition for a waiver ~~or variance~~ shall be evaluated by the agency based on the unique, individual circumstances set out in the petition. Discretion to grant or deny a waiver ~~or variance~~ petition rests with the labor commissioner or the labor commissioner's designee. The burden of persuasion shall be upon the petitioner. The division may request additional information relating to the requested waiver ~~or variance~~ from the petitioner and may conduct any necessary and appropriate investigation.

1.104(1) A waiver ~~or variance~~ may be granted if the division finds all of the following based on clear and convincing evidence:

- a. Application of the rule would pose an undue hardship on the person for whom the waiver ~~or variance~~ is requested;
- b. The provisions of a rule subject to a petition for a waiver ~~or variance~~ are not specifically mandated by statute or another provision of law;
- c. Waiver ~~or variance~~ of the rule in the specific circumstances would not prejudice the substantial legal rights of any person or cause a denial of federal funds; and
- d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver ~~or variance~~ is requested.

1.104(2) Petitioners requesting permanent waivers ~~or variances~~ must also show that a temporary waiver ~~or variance~~ would be impracticable.

ITEM 9. Amend subrules 1.105(1) and 1.105(2) as follows:

1.105(1) The division shall grant or deny all requests as soon as practicable, but no later than 120 days from receipt without consent of the petitioner. However, waiver ~~or variance~~ petitions filed in contested cases shall be granted or denied no later than the date of the decision in the contested case proceeding. Failure to grant or deny a petition within the required time period shall be deemed a denial.

1.105(2) If a waiver ~~or variance~~ is granted, it shall be drafted to provide the narrowest exception possible to the provisions of the rule. The ruling shall be in writing and shall include the reasons for granting or denying the petition and, if approved, the time period during which the waiver ~~or variance~~ is effective. The division may place any condition on a waiver ~~or variance~~ that the division finds desirable to protect the public health, safety, and welfare.

ITEM 10. Adopt the following new subrule 1.105(4):

1.105(4) Information about all orders granting or denying a waiver petition shall be submitted to the legislative services agency through the designated Internet site within 60 days of the granting or denying of the petition. The information submitted is available to the public via the website.

ITEM 11. Amend rules 875—1.106(17A,91) to 875—1.109(17A,91) as follows:

875—1.106(17A,91) Public availability. Subject to the provisions of Iowa Code section 17A.3(1) "e," orders granting and denying waivers ~~or variances~~ shall be indexed by rule and available for public inspection.

875—1.107(17A,91) Cancellation. The division may cancel a waiver ~~or variance~~ upon appropriate notice and hearing if the facts alleged in the petition or supplemental information provided were not true, material facts were withheld or have changed, the alternative means of compliance provided in the waiver ~~or variance~~ have failed to achieve the objectives of the statute, the requester has failed to comply with conditions set forth in the waiver ~~or variance~~ approval, or the rule or enabling Act has been amended.

875—1.108(17A,91) Violations. Violation of conditions in the waiver ~~or variance~~ approval is the equivalent of violation of the particular rule for which the waiver ~~or variance~~ is granted and is subject to the same remedies or penalties.

LABOR SERVICES DIVISION[875](cont'd)

875—1.109(17A,91) Appeals. Appeal from a decision granting or denying a waiver or variance shall be in accordance with the procedures provided in Iowa Code chapter 17A. An appeal shall be taken within 30 days of the ruling. However, any appeal from a decision on a petition for waiver or variance in a contested case proceeding shall be in accordance with the procedures for appeal of the contested case decision.

ITEM 12. Adopt the following new 875—Chapter 1, Division VIII, title:

DIVISION VIII
PETITIONS FOR RULE MAKING

ITEM 13. Adopt the following new rules 875—1.110(17A) to 875—1.112(17A):

875—1.110(17A) Petitions for rule making. Any person or agency may file a petition for rule making with the commissioner requesting the adoption, amendment or repeal of a rule. The petition shall be filed at the location specified in subrule 1.3(2). The petition must be in writing and provide the following information where applicable and known to the petitioner:

1.110(1) A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation to and the relevant language of the particular portion or portions of the rule proposed to be amended or repealed.

1.110(2) A citation to any law deemed relevant.

1.110(3) A brief summary of petitioner's arguments in support of the action urged in the petition.

1.110(4) A brief summary of any data supporting the action urged in the petition.

1.110(5) The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by or interested in the proposed action which is the subject of the petition.

1.110(6) The petition must be dated and signed by the petitioner or the petitioner's representative. The petition must also include the name, mailing address, and telephone number of the petitioner and the petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed. If desired, the petition should also provide an email address and a statement that email is an acceptable method for communication.

1.110(7) The commissioner may deny a petition because it does not provide the required information.

875—1.111(17A) Briefs. The petitioner may attach a brief to the petition in support of the action urged in the petition. The commissioner may request a brief from the petitioner or from any other person concerning the substance of the petition.

875—1.112(17A) Review procedures.

1.112(1) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the commissioner shall deny the petition in writing and notify the petitioner of its action and the specific grounds for the denial, or grant the petition and notify the petitioner that the commissioner will institute rule-making proceedings on the subject of the petition. Notice shall be sent to the petitioner by regular mail or email if appropriate. The petitioner shall be deemed notified of the denial or granting of the petition on the date the notification is mailed to the petitioner. Copies of the petition and the document granting or denying the petition shall be sent to the administrative rules review committee.

1.112(2) Denial of a petition because it does not contain the required information does not preclude the filing of a new petition on the same subject that seeks to correct the deficiencies.

ITEM 14. Amend subrule 3.11(1) as follows:

3.11(1) The civil penalties proposed by the labor commissioner on or after ~~October 3, 2020~~ June 10, 2021, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than \$9,639 and shall not exceed ~~\$134,937~~ \$136,532.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed ~~\$134,937~~ \$136,532.

LABOR SERVICES DIVISION[875](cont'd)

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed ~~\$13,494~~ \$13,653.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed ~~\$13,494~~ \$13,653.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed ~~\$13,494~~ \$13,653 per day.

f. Posting, reporting, or record-keeping violation. The penalty for each posting, reporting, or record-keeping violation under Iowa Code section 88.14(9) shall not exceed ~~\$13,494~~ \$13,653.

ITEM 15. Amend **875—Chapter 5**, title, as follows:

**RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS,
TOLERANCES AND EXEMPTIONS**

ITEM 16. Amend rule 875—5.1(88) as follows:

875—5.1(17A,88) Purpose and scope. This chapter contains rules of practice for administrative proceedings to grant variances and other relief under Iowa Code sections 17A.9A, 88.5(3), 88.5(6), and 88.5(7). These rules shall be construed to secure a prompt and just conclusion of proceedings ~~subject thereto~~.

ITEM 17. Amend rule **875—5.2(88)**, parenthetical implementation statute, as follows:

875—5.2(17A,88) Definitions.

ITEM 18. Amend rule **875—5.2(88)**, definition of “Variance,” as follows:

“*Variance*” means ~~waivers or variances, limitations, variations, tolerances and exemptions for temporary variances (Iowa Code section 88.5(3)), permanent variances (section 88.5(6)), and special variances (section 88.5(7))~~, pursuant to Iowa Code sections 17A.9A, 88.5(3), 88.5(6), and 88.5(7) unless otherwise specified.

ITEM 19. Rescind rule 875—5.5(88) and adopt the following **new** rule in lieu thereof:

875—5.5(17A,88) Summary reports. Information about all orders granting or denying a variance petition shall be submitted to the legislative services agency through the designated Internet site within 60 days of the granting or denying of the petition. The information submitted is available to the public via the website.

ITEM 20. Rescind and reserve rule **875—5.6(88)**.

ITEM 21. Amend paragraphs **5.7(2)“c”** and **“d”** as follows:

c. Any request for a hearing, as provided in this chapter; ~~and~~

d. The statements and certifications required by Iowa Code section 88.5(3); and

ITEM 22. Adopt the following **new** paragraph **5.7(2)“e”**:

e. The signature of the applicant or the applicant’s authorized representative.

ITEM 23. Amend paragraphs **5.8(2)“f”** and **“g”** as follows:

f. Any request for a hearing, as provided in this chapter; ~~and~~

g. A description of how employees have been informed of the application and of their right to petition the labor commissioner for a hearing; and

ITEM 24. Adopt the following **new** paragraph **5.8(2)“h”**:

h. The signature of the applicant or the applicant’s authorized representative.

ITEM 25. Amend paragraphs **5.9(2)“i”** and **“j”** as follows:

i. Any request for a hearing, as provided in this chapter; ~~and~~

j. A description of how employees have been informed of the application and of their right to petition the labor commissioner for a hearing; and

LABOR SERVICES DIVISION[875](cont'd)

ITEM 26. Adopt the following **new** paragraph **5.9(2)“k”**:

k. The signature of the applicant or the applicant’s authorized representative.

ITEM 27. Amend rule 875—5.11(88) as follows:

875—5.11(88) Action on applications.

~~**5.11(1) Defective applications.** If an application filed pursuant to 5.7(1), 5.8(1), 5.9(1), or 5.10(1) does not conform to the applicable rule, the labor commissioner may deny the application. Prompt notice of the denial of an application shall be given to the applicant and shall include, or be accompanied by, a brief statement of the grounds for the denial. A denial of an application pursuant to this rule shall be without prejudice to the filing of another application.~~

~~**5.11(2) Adequate applications.** If an application has not been denied pursuant to 5.11(1), the labor commissioner shall cause notice of the filing of the application to be made in accordance with rule 5.5(88).~~

~~A notice of the filing of an application shall include:~~

~~*a.*—The terms or an accurate summary, of the application;~~

~~*b.*—A reference to the section of the Act under which the application has been filed;~~

~~*c.*—An invitation to interested persons to submit within a stated period of time written data, views or arguments regarding the application; and~~

~~*d.*—Information to affected employers and employees of any right to request a hearing on the application.~~

ITEM 28. Amend rule 875—5.19(88) as follows:

875—5.19(88) Discovery.

~~**5.19(1) Perpetuating testimony.** Iowa Rules of Civil Procedure 159–166 are applicable for the taking of depositions for a variance hearing before the hearing examiner.~~

~~**5.19(2) Other discovery.** Whenever appropriate to a just disposition of any issue in a hearing, the hearing examiner may allow discovery by other appropriate procedures, such as by written interrogatories upon a party, depositions, production of documents by a party, or by entry for inspection of the employment or place of employment involved. Iowa Rules of Civil Procedure 121–134 and 140–158 shall be applicable to such authorized discovery procedures.~~

ITEM 29. Amend **875—Chapter 5**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~84A.1, 84A.2, 88.2, 88.3,~~ 17A.9A and 88.5, 88.6, and 88.7.

ARC 5509C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

**Proposing rule making related to deer hunting by residents
and providing an opportunity for public comment**

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6)“a,” 481A.39, and 481A.48(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 481A.39 and 481A.48(1).

NATURAL RESOURCE COMMISSION[571](cont'd)

Purpose and Summary

Chapter 106 contains the regulations for deer hunting by residents in the state of Iowa and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements.

This rule making proposes six specific amendments to Chapter 106, which collectively accomplish the following three broader changes to the deer hunting regulations. First, general deer licenses are being reestablished as valid in three counties for all seasons: Hamilton, Webster, and Wright. Deer populations have been steadily increasing in northwest Iowa, allowing for this increase in recreational opportunities for Iowa hunters.

Second, the January antlerless-deer-only season is being conditionally reinstated for five counties: Allamakee, Appanoose, Decatur, Wayne, and Winneshiek. The season will only happen, on a county-by-county basis, if the respective number of unsold antlerless-deer-only licenses exceeds 100 in a county on the third Monday in December. This change accomplishes two objectives for deer population and disease management: (1) it maintains a stable level of antlerless-deer harvest earlier during the hunting season when deer are still within their breeding home range, thus slowing the spread of chronic wasting disease among deer family groups, and (2) it allows opportunities for additional antlerless-deer harvest later in the hunting season to help with population management. The Department's goal moving forward will be to stabilize deer numbers in these counties and slow the spread of chronic wasting disease.

Third, county antlerless-deer-only license quotas are being modified in 25 counties for an overall statewide increase of 1,250 more tags. Quotas are being increased in Buchanan, Butler, Dallas, Des Moines, Dubuque, Fayette, Floyd, Henry, Johnson, Keokuk, Lee, Louisa, Madison, Marion, Muscatine, and Warren Counties to reduce deer densities for the purpose of disease control or to alleviate negative human-deer interactions. Quotas will be decreased in Adams, Fremont, Harrison, Jasper, Mills, Monona, Pottawattamie, Wapello, and Woodbury Counties to stabilize healthy local deer populations.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

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

Tyler Harms
Iowa Department of Natural Resources
Boone Research Station
1436 255th Street
Boone, Iowa 50036
Email: tyler.harms@dnr.iowa.gov

NATURAL RESOURCE COMMISSION[571](cont'd)

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Chris Ensminger, wildlife research supervisor, via email at chris.ensminger@dnr.iowa.gov. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Mr. Ensminger prior to the hearing to facilitate an orderly hearing.

March 30, 2021
1 to 2 p.m.

Video/conference call

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **106.1(1)“a”** as follows:

a. General deer licenses. General deer licenses shall be valid for taking deer in one season selected at the time the license is purchased. General deer licenses shall be valid for taking deer of either sex except in Buena Vista, Calhoun, Cherokee, Clay, Dickinson, Emmet, ~~Hamilton~~, Humboldt, Ida, Kossuth, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, ~~and~~ Sioux, ~~Webster, and Wright~~ Counties during the first regular gun season when the general deer license will be valid for taking deer with at least one forked antler. Paid general deer licenses shall be valid statewide except where prohibited in deer population management zones established under 571—Chapter 105. Free general deer licenses shall be valid for taking deer of either sex only on the farm unit of an eligible landowner or tenant in the season or seasons selected at the time the license is obtained.

ITEM 2. Adopt the following **new** subrule 106.1(6):

106.1(6) January antlerless-deer-only licenses. Licenses for the January antlerless-deer-only season may be issued for the following counties: Allamakee, Appanoose, Decatur, Wayne, and Winneshiek. January antlerless-deer-only licenses shall be issued for a county only when a minimum of 100 antlerless-deer-only licenses, as described in subrule 106.6(6), remain unsold in that county as of the third Monday in December. If 100 or more antlerless-deer-only licenses remain unsold for a given county as of the third Monday in December, those remaining antlerless-deer-only licenses shall be made available for the January antlerless-deer-only season in that county until the relevant antlerless-deer-only quota as described in subrule 106.6(6) is met.

ITEM 3. Adopt the following **new** subrule 106.2(5):

106.2(5) January antlerless-deer-only season. Deer may be taken in accordance with the type, season, and zone designated on the license from January 11 through the third Sunday in January.

ITEM 4. Adopt the following **new** subrule 106.4(5):

106.4(5) January antlerless-deer-only season. The bag limit is one deer per license. The possession limit is one deer per license.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 5. Adopt the following **new** subrule 106.6(4):

106.6(4) January antlerless-deer-only season. Only antlerless-deer-only licenses, paid or free, are available in counties pursuant to the conditions described in subrule 106.1(6). A license must be used during the January antlerless-deer-only season as described in subrule 106.2(5) and in the county or deer population management area selected at the time the license is purchased. Free antlerless-deer-only licenses shall be available only in the portion of the farm unit located in a county where paid antlerless-deer-only licenses are available during the January antlerless-deer-only season.

ITEM 6. Amend subrule 106.6(6) as follows:

106.6(6) Antlerless-deer-only licenses. Paid antlerless-deer-only licenses will be available by county as follows:

County	Quota	County	Quota	County	Quota
Adair	1200	Floyd	100 <u>150</u>	Monona	850 <u>750</u>
Adams	1200 <u>1000</u>	Franklin	0	Monroe	2250
Allamakee	3800	Fremont	200 <u>100</u>	Montgomery	500
Appanoose	2700	Greene	0	Muscatine	775 <u>900</u>
Audubon	0	Grundy	0	O'Brien	0
Benton	325	Guthrie	2150	Osceola	0
Black Hawk	0	Hamilton	0	Page	500
Boone	300	Hancock	0	Palo Alto	0
Bremer	300	Hardin	0	Plymouth	0
Buchanan	300 <u>400</u>	Harrison	850 <u>750</u>	Pocahontas	0
Buena Vista	0	Henry	925 <u>1050</u>	Polk	1350
Butler	150 <u>200</u>	Howard	450	Pottawattamie	850 <u>750</u>
Calhoun	0	Humboldt	0	Poweshiek	200
Carroll	0	Ida	0	Ringgold	1400
Cass	400	Iowa	450	Sac	0
Cedar	775	Jackson	1100	Scott	200
Cerro Gordo	0	Jasper	775 <u>575</u>	Shelby	0
Cherokee	0	Jefferson	1500	Sioux	0
Chickasaw	375	Johnson	850 <u>950</u>	Story	150
Clarke	2400	Jones	1100	Tama	300
Clay	0	Keokuk	450 <u>500</u>	Taylor	1500
Clayton	4000	Kossuth	0	Union	1400
Clinton	400	Lee	1500 <u>1700</u>	Van Buren	2100
Crawford	0	Linn	850	Wapello	1700 <u>1600</u>
Dallas	1875 <u>2100</u>	Louisa	675 <u>775</u>	Warren	2700 <u>3000</u>
Davis	1700	Lucas	2500	Washington	1000
Decatur	2200	Lyon	0	Wayne	2700
Delaware	950	Madison	3000 <u>3300</u>	Webster	0
Des Moines	800 <u>900</u>	Mahaska	475	Winnebago	0
Dickinson	0	Marion	1850 <u>2050</u>	Winneshiek	2700
Dubuque	975 <u>1200</u>	Marshall	150	Woodbury	300 <u>200</u>
Emmet	0	Mills	500 <u>300</u>	Worth	0
Fayette	2300 <u>2500</u>	Mitchell	100	Wright	0

ARC 5510C**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action****Proposing rule making related to adding three counties to the bobcat harvest zone and providing an opportunity for public comment**

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 108, “Mink, Muskrat, Raccoon, Badger, Opossum, Weasel, Striped Skunk, Fox (Red and Gray), Beaver, Coyote, River Otter, Bobcat, Gray (Timber) Wolf and Spotted Skunk Seasons,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6)“a,” 481A.38, 481A.39, and 481A.87.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 481A.87.

Purpose and Summary

Chapter 108 sets the season dates, bag limits, possession limits, and areas open to hunting or trapping fur-bearing animals. This rule making proposes to add Delaware, Dubuque, and Jones Counties to the one bobcat per fur harvester zone. Data from the past 12 years reveal that Iowa’s bobcat population continues to grow and expand into more counties that provide suitable habitats. Information about the bobcat population has been compiled from a variety of sources, such as hunter surveys, harvest information, field reports, and sightings. This proposed rule change is biologically responsible, as required by law, and will increase recreational opportunities for Iowa fur harvesters while helping minimize social issues associated with high bobcat densities.

Fiscal Impact

The Department of Natural Resources (Department) anticipates a very modest increase in fur harvester license sales from the proposed rule. Currently, resident fur harvester licenses, with the wildlife habitat fee, are \$41 per year. If any additional fur harvester licenses are sold as a result of the newly opened counties, revenue would be generated for the State Fish and Game Protection Fund. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

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

Waivers

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

Public Comment

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

NATURAL RESOURCE COMMISSION[571](cont'd)

Vince Evelsizer
Iowa Department of Natural Resources
1203 North Shore Drive
Clear Lake, Iowa 50428
Email: vince.evelsizer@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Chris Ensminger, Wildlife Research Supervisor, by email at chris.ensminger@dnr.iowa.gov. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Mr. Ensminger prior to the hearing to facilitate an orderly hearing.

March 30, 2021
12 noon to 1 p.m.

Video/conference call

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 108.7(2) as follows:

108.7(2) *Open area.* River otters may be taken statewide. Bobcats may be taken in the following counties: Adair, Adams, Appanoose, Audubon, Boone, Cass, Cedar, Cherokee, Clarke, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dubuque, Fremont, Guthrie, Harrison, Henry, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Mills, Monona, Monroe, Montgomery, Muscatine, Page, Plymouth, Polk, Pottawattamie, Poweshiek, Ringgold, Scott, Shelby, Sioux, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, and Woodbury.

ITEM 2. Amend paragraph **108.7(3)“b”** as follows:

b. The seasonal bag limit for bobcats is 1 bobcat per person in the following counties: Audubon, Boone, Cedar, Cherokee, Clinton, Crawford, Dallas, Delaware, Dubuque, Guthrie, Harrison, Iowa, Jackson, Jasper, Johnson, Jones, Lyon, Monona, Muscatine, Plymouth, Polk, Poweshiek, Scott, Shelby, Sioux, Webster, and Woodbury.

ARC 5506C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

The Public Health Department hereby proposes to amend Chapter 70, “Lead-Based Paint Activities,” Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 135.105A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 272C and section 135.105A and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments in Chapter 70 implement 2020 Iowa Acts, House File 2627; standardize when a certification can be denied due to criminal convictions; and provide an opportunity for an eligibility determination.

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 the Department's waiver provisions contained in 641—Chapter 178.

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 30, 2021. Comments should be directed to:

Kane Young
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: kane.young@idph.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:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Adopt the following **new** definitions of “Complete criminal record,” “Conviction” and “Disqualifying offense” in rule **641—70.2(135)**:

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

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

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

ITEM 2. Adopt the following **new** subrule 70.5(3):

70.5(3) *Use of criminal convictions in eligibility determinations and initial licensing decisions.*

a. *License application.* Unless an applicant for licensure petitions the department for an eligibility determination pursuant to paragraph 70.5(3) “b,” the applicant’s convictions will be reviewed when the department receives a completed certification application.

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

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

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

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

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

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

b. *Eligibility determination.* An individual who has not yet submitted a completed certification application may petition the department for a determination of whether one or more of the individual’s convictions are disqualifying offenses that would render the individual ineligible for certification. An individual with a conviction is not required to petition the department for an eligibility determination prior to applying for certification. To petition the department for an eligibility determination of whether one or more of the petitioner’s convictions are disqualifying offenses, a petitioner shall submit all of the following:

(1) A completed petition for eligibility determination form;

(2) The complete criminal record for each of the petitioner’s convictions;

(3) A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the department should find the petitioner rehabilitated;

(4) All evidence of rehabilitation that the petitioner wishes to be considered by the department; and

(5) Payment of a nonrefundable fee of \$25.

c. *Appeal.* A petitioner deemed ineligible or an applicant denied a certification because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the department’s written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The department’s rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the department’s written decision will become a final order.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

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

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

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

d. Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a certification application prior to the date specified in the final order. If a final order denies a certification application, the applicant may not submit a subsequent certification application or a petition for eligibility determination prior to the date specified in the final order.

ITEM 3. Amend **641—Chapter 70**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 135.105A, 272C.4 and 272C.12.

ARC 5507C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

The Public Health Department hereby proposes to amend Chapter 131, "Emergency Medical Services—Providers—Initial Certification—Renewal and Reactivation—Authority—Complaints and Investigations," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 147A and 272C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147A and 272C and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments incorporate required language from 2020 Iowa Acts, House File 2627. The proposed amendments reflect the model language for adoption that is being adopted by all the boards impacted by 2020 Iowa Acts, House File 2627, where relevant. The sections of 2020 Iowa Acts, House File 2627, that are relevant to Chapter 131 include sections 23, 24, 26 and 29 and are reflected in the proposed amendments.

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.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

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 30, 2021. Comments should be directed to:

Rebecca Curtiss
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: rebecca.curtiss@idph.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 **641—131.2(147A,147D)**, parenthetical implementation statute, as follows:

641—131.2(147A,147D,272C) Definitions.

ITEM 2. Adopt the following **new** definitions of “Complete criminal record,” “Conviction” and “Disqualifying offense” in rule **641—131.2(147A,147D)**:

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

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

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

ITEM 3. Amend rule **641—131.3(147A)**, parenthetical implementation statute, as follows:

641—131.3(147A,272C) Initial certification.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 4. Adopt the following **new** subrules 131.3(6) and 131.3(7):

131.3(6) Fees may be waived in accordance with provisions in Iowa Code chapter 272C for individuals demonstrating income that does not exceed 200 percent of the federal poverty level.

131.3(7) Use of criminal convictions in eligibility determinations and initial licensing decisions.

a. License application. Unless an applicant for licensure petitions the department for an eligibility determination pursuant to paragraph 131.3(7)“b,” the applicant’s convictions will be reviewed when the department receives a completed license application.

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

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

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

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

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

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

b. Eligibility determination. An individual who has not yet submitted a completed license application may petition the department for a determination of whether one or more of the individual’s convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the department for an eligibility determination prior to applying for licensure. To petition the department for an eligibility determination of whether one or more of the petitioner’s convictions are disqualifying offenses, a petitioner shall submit all of the following:

(1) A completed petition for eligibility determination form;

(2) The complete criminal record for each of the petitioner’s convictions;

(3) A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the department should find the petitioner rehabilitated;

(4) All evidence of rehabilitation that the petitioner wishes to be considered by the board; and

(5) Payment of a nonrefundable fee of \$25.

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

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

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

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

(4) A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested

PUBLIC HEALTH DEPARTMENT[641](cont'd)

case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

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

ITEM 5. Rescind paragraph **131.7(4)“u”** and adopt the following **new** paragraph in lieu thereof:

u. Conviction of a disqualifying offense. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction.

ARC 5501C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

**Proposing rule making related to fire service training bureau
and providing an opportunity for public comment**

The State Fire Marshal hereby proposes to amend Chapter 53, “Fire Service Training Bureau,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 80.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 80.5.

Purpose and Summary

The purpose of the proposed amendments is to correct an outdated Iowa Code reference and update the submission process for course and conference tuition and registration fees.

Fiscal Impact

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

Jobs Impact

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

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 the provisions of rule 661—10.222(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 30, 2021. Comments should be directed to:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Sarah Jennings
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: jennings@dps.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 rule 661—53.2(80) as follows:

661—53.2(80) Programs, services, and fees.

53.2(1) *Courses and ~~tuition~~ registration fees.* Current course offerings and associated registration and other related course fees of the fire service training bureau are available in ~~the document~~ [Catalog of Courses, Conferences and Services](#), available from electronic format via the fire service training bureau web page, and hard copy upon request. Current course ~~tuition~~ registration fees and any other fees related to participation in courses shall be listed in ~~the document~~ [Catalog of Courses, Conferences and Services](#) electronic format via the fire service training bureau web page, and hard copy upon request, and shall be effective until superseded by publication of a later edition of the web page and document. Prospective students should inquire of the fire service training bureau as to the date of most recent publication of ~~the Catalog of Courses, Conferences and Services~~ any courses, services, and fees prior to submitting the ~~tuition fee~~ registration and other fees for a course.

53.2(2) *Conferences and fees.* Upcoming conferences offered by the fire service training bureau are listed in ~~the document~~ [Catalog of Courses, Conferences and Services](#), available from electronic format via the fire service training bureau web page, and hard copy upon request. Conference registration fees and any other fees related to attendance at conferences shall be listed in ~~the document~~ [Catalog of Courses, Conferences and Services](#) electronic format via the fire service training bureau web page, and hard copy upon request, and shall be effective until superseded by publication of a later edition of the web page and document. Prospective students should inquire of the fire service training bureau as to the date of most recent publication of ~~the Catalog of Courses, Conferences and Services~~ any conferences and associated fees prior to submitting registration fees or any other fees related to attendance at a conference.

53.2(3) *Publications and materials; fees.* All publications and materials currently offered for sale by the fire service training bureau are listed in ~~the document~~ [Catalog of Publications and Materials](#), available from electronic format via the fire service training bureau web page, and hard copy upon request. Current prices of publications shall be listed in ~~the document~~ [Catalog of Publications and Materials](#) electronic format via the fire service training bureau web page, and hard copy upon request, and shall be effective until superseded by publication of a later edition of the web page and document. Persons wishing to purchase publications or materials should inquire of the fire service training bureau as to the date of most

PUBLIC SAFETY DEPARTMENT[661](cont'd)

recent publication of the ~~Catalog of Publications and Materials~~ and associated fees prior to submitting payment for publications or materials.

53.2(4) Other services and tuition fees. Services other than courses, conferences, and firefighter certification offered by the fire service training bureau are listed in ~~the document Catalog of Courses, Conferences and Services, available from~~ electronic format via the fire service training bureau web page, and hard copy upon request. Current fees for these services shall be listed in ~~the document Catalog of Courses, Conferences and Services~~ electronic format via the fire service training bureau web page, and hard copy upon request, and shall be effective until superseded by publication of a later edition of the web page and document. Prospective clients for these services should inquire of the fire service training bureau as to the date of most recent publication of ~~the Catalog of Courses, Conferences and Services services and fees~~ prior to submitting a request for or payment for any service.

ITEM 2. Amend **661—Chapter 53**, implementation sentence, as follows:
These rules are intended to implement Iowa Code section ~~80.9~~ 80.5.

ARC 5502C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to firefighter training and certification and providing an opportunity for public comment

The State Fire Marshal hereby proposes to amend Chapter 251, “Fire Fighter Training and Certification,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 100B.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 100B.

Purpose and Summary

The purpose of the proposed amendments to Chapter 251 is to make changes to spelling and style issues and enumerate the conditions in which a firefighter’s certification may be revoked in the event of a felony-level conviction.

Fiscal Impact

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

Jobs Impact

Firefighters whose employment requires active certification may have their jobs impacted if their certifications are revoked due to certain felony-level convictions.

Waivers

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

PUBLIC SAFETY DEPARTMENT[661](cont'd)

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 30, 2021. Comments should be directed to:

Sarah Jennings
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: jennings@dps.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 **661—Chapter 251**, title, as follows:

~~FIRE FIGHTER~~ FIREFIGHTER TRAINING AND CERTIFICATION

ITEM 2. Amend rule 661—251.1(100B) as follows:

661—251.1(100B) Definitions. The following definitions apply to rules 661—251.1(100B) to 661—251.204(100B):

“*Emergency incident*” means any incident involving a fire or other hazardous situation to which personnel of a fire department respond.

“*NFPA*” means the National Fire Protection Association.

“*Structural fire fighting firefighting*” means ~~fire fighting~~ firefighting in a hazardous environment which requires the use of self-contained breathing apparatus.

ITEM 3. Amend rule 661—251.101(100B) as follows:

661—251.101(100B) Minimum training standard. Any member of a fire department shall have completed the training requirements identified in the job performance requirements for the fire fighter I classification in NFPA 1001, Standard for Fire Fighter Professional Qualifications, based on the current edition adopted by the fire service training bureau, prior to the member’s engaging in structural ~~fire fighting~~ firefighting. Each fire department shall identify its members who are or will be engaged in structural ~~fire fighting~~ firefighting and shall ensure that any member engaged in structural ~~fire fighting~~ firefighting has completed the training requirements specified in this rule prior to the member’s engaging in structural ~~fire fighting~~ firefighting.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

NOTE: A ~~fire-fighter~~ firefighter is not required to be certified to meet this requirement. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, a local fire department, or any combination thereof.

EXCEPTION 1: A ~~fire-fighter~~ firefighter who received training which complied with the job performance requirements for the fire fighter I classification contained in an earlier edition of NFPA 1001 shall be deemed to have met this requirement, provided that records documenting the training are maintained in accordance with rule 661—251.104(100B).

EXCEPTION 2: The chief or the training officer of any fire department may apply to the state fire marshal by June 1 of any year for an extension of the deadline to meet the training requirement for members of the department engaged in structural ~~fire-fighting~~ firefighting. Any such extension shall be for one year and may be renewed annually upon application. An extension shall be granted only if the department has requested training required under this rule, with training costs to be offset through funding from the ~~fire-fighting~~ firefighting training and equipment fund, pursuant to 661—Chapter 259, and funds to offset the cost of the training have not been available or have been inadequate to fully offset the cost of the training. The extension may be for all or some of the ~~fire-fighters~~ firefighters in the department. The application shall be in a form specified by the state fire marshal and shall list by name each ~~fire-fighter~~ firefighter for whom an extension is requested. The extension, if granted, shall list by name the ~~fire-fighters~~ firefighters to whom the extension applies and shall apply only to those listed.

ITEM 4. Amend rule 661—251.102(100B) as follows:

661—251.102(100B) Other training. Any member of a fire department who serves in a capacity other than structural ~~fire-fighting~~ firefighting at an emergency incident shall have received training based on the duties the member might perform at an emergency incident. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

ITEM 5. Amend rule 661—251.103(100B) as follows:

661—251.103(100B) Continuing training. Fire department members shall participate in at least 24 hours of continuing training annually, which ~~shall be selected from~~ may include, but is not limited to, the following subject matter areas:

1. No change.
2. Structural ~~fire-fighting~~ firefighting techniques, including standard operating policies and procedures or standard operating guidelines.
3. to 7. No change.
8. ~~Fire-fighter~~ Firefighter safety.
9. National Incident management system Management System or ~~incident command system~~ Incident Command System.
10. to 12. No change.
13. Additional training based on standard operating policies and procedures or standard operating guidelines.
14. ~~Other~~ Occupational Safety and Health Administration (OSHA)-related training, such as blood-borne pathogen protection.
15. Specialty training such as confined space entry, vehicle extrication, rescue techniques, wildland or agricultural ~~fire-fighting~~ firefighting techniques.
16. and 17. No change.

NOTE: Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

ITEM 6. Amend rule 661—251.104(100B) as follows:

661—251.104(100B) Record keeping. Each fire department shall maintain training records for each individual member of the department who participates in emergency incidents. These training records

PUBLIC SAFETY DEPARTMENT[661](cont'd)

shall identify, for all training completed by the individual ~~fire fighter~~ firefighter, the person or persons who provided the training, the dates during which the training was completed, the location or locations where the training was delivered, and a description of the content of the training.

ITEM 7. Amend **661—Chapter 251**, division heading, as follows:

~~FIRE FIGHTER~~ FIREFIGHTER CERTIFICATION

ITEM 8. Amend rule 661—251.201(100B) as follows:

661—251.201(100B) ~~Fire fighter~~ Firefighter certification and accreditation program. There is established within the fire service training bureau of the state fire marshal division a ~~fire fighter~~ firefighter certification program for the state of Iowa, which shall be known as the certification and accreditation program. The certification and accreditation program is accredited by the National Board on Fire Service Professional Qualifications (PROBOARD) and the International Fire Service Accreditation Congress (IFSAC) to certify fire service personnel to accepted national standards. All certifications issued by the certification and accreditation program shall be based upon nationally accepted standards.

NOTE 1: Participation in the certification and accreditation program is voluntary, and state law does not require certification to work or volunteer as a ~~fire fighter~~ firefighter in Iowa. However, some fire departments within the state require certification for continued employment or promotion. Inquiries regarding such requirements should be directed to the hiring or employing department.

NOTE 2: Inquiries and requests regarding the certification and accreditation program should be directed to the fire service training bureau.

251.201(1) No change.

251.201(2) *Application.* Application forms for each level of ~~fire fighter~~ firefighter certification may be obtained from the fire service training bureau. In order to enter the certification and accreditation program, an applicant shall submit a completed application, accompanied by the required fee, to the fire service training bureau. The fee must accompany the application form, although a purchase order from a public agency or private organization may be accepted in lieu of prior payment. The application and fee shall be submitted no less than two weeks prior to the date of any examination in which the applicant wishes to participate.

ITEM 9. Amend subrule 251.202(1) as follows:

251.202(1) ~~Fire fighter~~ Firefighter.

a. and *b.* No change.

ITEM 10. Amend rule 661—251.203(100B) as follows:

661—251.203(100B) Fees. Current certification application fees and any other fees related to participation in the certification process shall be listed ~~in~~ on the fire service training bureau's web page and also within the publication Certification Procedures Guide for each level of certification, published by the fire service training bureau ~~and available on request from the fire service training bureau.~~ The information in each guide shall be effective upon publication until superseded by publication of a later edition. Prospective candidates who are considering application for a particular level of certification should contact the fire service training bureau for the latest date of publication of the Certification Procedures Guide.

Fees may be paid by personal check made payable to Iowa Department of Public Safety—Fire Service Training Bureau, credit card, purchase order from a public agency or private organization, check or draft from a public agency or private organization, or money order. The check, credit card information, purchase order, money order or draft shall be submitted with the application.

ITEM 11. Amend subrule 251.204(3) as follows:

251.204(3) *Revocation.* The fire service training bureau may revoke the certification of any individual who is found to have knowingly provided false information to the fire service training bureau during the certification process or to have engaged in fraudulent activity during the certification process.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

In addition, certification may be revoked by the fire service training bureau if an individual was found to have engaged in and been convicted of a felony-level crime, including but not limited to murder, arson, sexual assault, physical assault, embezzlement, and crimes committed against a fire department or its respective association.

ARC 5503C

REVENUE DEPARTMENT[701]

Amended Notice of Intended Action

**Providing for a public hearing on rule making related to
broadband infrastructure grant exemption**

The Notice of Intended Action published in the Iowa Administrative Bulletin on January 27, 2021, as **ARC 5399C** proposes to amend Chapter 40, "Determination of Net Income," Chapter 53, "Determination of Net Income," and Chapter 59, "Determination of Net Income," Iowa Administrative Code. In order to receive oral comments concerning **ARC 5399C**, the Revenue Department hereby gives notice that a public hearing will be held via Google Meet at the link below. Participants may also call in via phone at the following phone number: (US)+1 507.589.4983. When prompted, enter PIN: 504 479 534#

March 30, 2021
10 to 11 a.m.

meet.google.com/rmc-ygmu-hqm
Google Meet Location

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

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 422.7, 422.35 and 422.61.

Purpose and Summary

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

A hearing on the proposed rule making has been requested. No changes have been made from the original Notice.

Fiscal Impact, Jobs Impact, Waivers

Statements related to the fiscal impact, jobs impact, and waiver of this rule making may be found in the preamble of **ARC 5399C**.

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

REVENUE DEPARTMENT[701](cont'd)

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

ARC 5504C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to bundled transactions and providing an opportunity for public comment**

The Revenue Department hereby proposes to adopt new Chapter 216, “Bundled Transactions,” and amend Chapter 231, “Exemptions Primarily of Benefit to Consumers,” 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 423.2 and 423.3; 2018 Iowa Acts, Senate File 2417; and 2020 Iowa Acts, House File 2641.

Purpose and Summary

This rule making proposes to adopt new Chapter 216 on bundled transactions to implement the adoption of language by the General Assembly in 2018 Iowa Acts, Senate File 2417, to fully incorporate the definition of “bundled transaction” to be used by members of the Streamlined Sales and Use Tax Agreement, including Iowa. This proposed rule making also incorporates the addition of “specified digital products” into the bundled transaction provision in the Iowa Code, pursuant to changes to the Iowa Code made by 2020 Iowa Acts, House File 2641. Additionally, this rule making proposes to amend the Department’s existing rule on sales of candy to remove outdated language pertaining to bundled transactions.

Currently, outdated bundled transaction language is incorporated throughout the Department’s sales and use tax rules. This rule making creates a single, centralized chapter for rules that implement the current law pertaining to bundled transactions. While the Department proposes to remove some of this language from Chapter 231 in this Notice, the Department will pursue additional rule making in the near future to clean up the outdated bundled transaction language throughout its administrative rules.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The Legislative Services Agency estimates for 2018 Iowa Acts, Senate File 2417, and 2020 Iowa Acts, House File 2641, did not address the impact to the General Fund from sales tax collections due to these bundled transaction changes.

Jobs Impact

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

Waivers

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

REVENUE DEPARTMENT[701](cont'd)

Public Comment

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

Tim Reilly
 Department of Revenue
 Hoover State Office Building
 P.O. Box 10457
 Des Moines, Iowa 50306
 Phone: 515.782.0535
 Email: tim.reilly@iowa.gov

Public Hearing

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

March 30, 2021
 2 to 3 p.m.

Via video/conference call

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

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

Persons who wish to participate in the video/conference call should contact Tim Reilly before 4:30 p.m. on March 15, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** 701—Chapter 216:

CHAPTER 216
 BUNDLED TRANSACTIONS

701—216.1(423) Taxability of bundled transactions. The sales price of a bundled transaction is subject to tax if any product included in the bundled transaction would be taxable if sold separately. For purposes of this rule, products include tangible personal property, services, and specified digital products and exclude real property and services to real property.

701—216.2(423) Bundled transaction. A “bundled transaction” is the retail sale of two or more products where the products are otherwise distinct and identifiable and the products are sold for one non-itemized price.

216.2(1) Distinct and identifiable product. “Distinct and identifiable product” does not include any of the following:

REVENUE DEPARTMENT[701](cont'd)

a. Packaging or other materials that accompany the retail sale of the products and are incidental or immaterial to the retail sales of the products. Packaging or other materials include, but are not limited to, containers, boxes, sacks, bags, bottles, envelopes, wrapping, labels, tags, twine, garment hangers, and instruction guides.

EXAMPLE 1: Seller Z provides paper and plastic bags for purchasers to use to carry away their purchased items. The bags are incidental or immaterial to the retail sales of the products and are not distinct and identifiable products. Seller Z's retail sale of purchased items in the provided bags does not constitute a bundled transaction.

EXAMPLE 2: Seller X sells brownies and offers purchasers the option of adding a premium box for an increased price. The sales price of the brownies is the same whether they are sold on their own or with a standard box, but the total sales price increases if the purchasers select a premium box. The premium box is distinct and identifiable from the food product because it requires separate shopping preferences and product selection by the purchaser and is not standard with every order of food product. The retail sale of the brownies and the premium box may constitute a bundled transaction if the other requirements pursuant to Iowa Code section 423.2(8) are satisfied.

EXAMPLE 3: Seller A offers purchasers the option to buy reusable, long-lasting grocery bags to use to carry away purchased grocery items. If the reusable grocery bags are purchased with other items and separately itemized, they are taxable and the sale does not constitute a bundled transaction.

b. A product that is provided free of charge to the consumer in conjunction with the required purchase of another product, if the sales price of the other product does not vary depending on whether the product provided free of charge is included in the transaction. Examples include a free car wash with the purchase of gasoline or free dinnerware with the purchase of groceries.

c. Items specified in the definition of "sales price" in Iowa Code section 423.1.

216.2(2) One non-itemized price. "One non-itemized price" does not include the following:

a. A price that is separately identified by product on a binding sales document, or other sales-related documentation, that is made available to the customer in paper or electronic form, including but not limited to an invoice, a bill of sale, a receipt, a contract, a service agreement, a lease agreement, a periodic notice of rates and services, a rate card or a price list.

b. A price for which the sales price varies or is negotiable based on the purchaser's selection of the products included in the transaction even if the seller only provides one price on its invoice to the purchaser.

EXAMPLE 1: Seller A sells a bakery item as part of a meal which consists of taxable prepared food. The purchaser selects items from a list of options of prepared food to be included in the meal. The individual items of the meal are not itemized on the receipt and the meal is always the same price, notwithstanding the items selected by the purchaser. The meal is sold for one non-itemized price, and the sales price of the meal is subject to tax as a bundled transaction.

EXAMPLE 2: Seller B enters into a contract with buyer D to provide various information technology services. Buyer D selects the information technology services it wants from seller B. Through negotiation, buyer D and seller B agree on a price based on the services selected and seller B bills buyer D one price for all of the services, some of which are taxable and some of which are not taxable. Although the invoice from seller B to buyer D only contains one price for all of the services, since the price was based on the products selected by buyer D, the price is not one non-itemized price and the sale does not constitute a bundled transaction.

701—216.3(423) Transactions not taxable as bundled transactions. Generally, the entire sales price from a bundled transaction is subject to sales tax. However, the transactions described in this rule are not taxable as bundled transactions:

216.3(1) Sales involving mixed tangible personal property and services. The retail sale of tangible personal property or specified digital product and a service, if the tangible personal property or specified digital product is essential to the use of the service, and provided exclusively in connection with the service, and if the true object of the transaction is the service.

REVENUE DEPARTMENT[701](cont'd)

EXAMPLE: Seller A charges customer B for computer programming services where customer B is also given a backup disk and instruction manual. The true object of the transaction is the provision of the programming services. Seller A is selling nontaxable services and is not making a sale of a bundled transaction. Iowa sales tax is not due on the programmer's charge for services; sales tax is due on seller A's purchases of tangible personal property used to fulfill the service.

216.3(2) Sales involving services. The retail sale of services, if one of the services is essential to the use or receipt of a second service, and provided exclusively in connection with the second service, and if the true object of the transaction is the second service. If the transaction is not a bundled transaction as a result of this exclusion, then the true object of the transaction will be the retail sale of the second service and should be taxed accordingly.

216.3(3) True object test. The true object of a transaction is the main product that is the subject of the transaction. Determining the true object of a transaction is a fact-based inquiry and shall be made on a case-by-case basis. Factors that may be considered in determining the true object of a transaction include, but are not limited to, the nature of the seller's business and purchaser's reason for making the purchase.

216.3(4) Sales involving "de minimis" taxable products. A transaction that includes taxable and nontaxable products and the seller's purchase price or sales price of the taxable products is de minimis. "De minimis" means the seller's purchase price or sales price of the taxable products is 10 percent or less of the total purchase price or sales price of the bundled products. A seller shall use either the seller's purchase price or seller's sales price of the products to determine if the taxable products are de minimis. A seller may not use a combination of the seller's purchase price and seller's sales price of the products to determine if the taxable products are de minimis.

EXAMPLE 1: Seller H sells a coupon book that includes a packet of stickers for one non-itemized price of \$75. The packet of stickers is not provided free of charge. Seller H purchased the stickers, a taxable product, for \$2 per packet, which does not exceed 10 percent of the total purchase price of the coupon book and stickers. Seller H's sale of the coupon book and stickers is not a bundled transaction, and the sales price of \$75 is not subject to tax.

EXAMPLE 2: Technology Company F (company F) sells access to a day-long live webinar about the latest trends occurring in the technology industry for one non-itemized price of \$200. The webinar, which does not allow people viewing the presentation to submit questions, is not subject to Iowa sales tax. The customer also receives a smartwatch that is included in the payment of the webinar but is not provided free of charge. Company F's sales price of the smartwatch is \$50, which exceeds 10 percent of the total sales price of the fee. The watch is subject to sales tax by the customer. Because company F's purchase price of the watch is not de minimis, the \$200 transaction is a bundled transaction and is subject to tax.

216.3(5) Sales involving taxable and exempt food or medical products. The retail sale of exempt tangible personal property and taxable tangible personal property where all of the following apply:

a. The transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, prosthetic devices, or medical supplies; and

b. The seller's purchase price or sales price of the taxable tangible personal property is 50 percent or less of the total purchase price or sales price of the bundled tangible personal property. Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the 50 percent determination for a transaction.

EXAMPLE: Seller F offers its customers a package containing two prepared hot dogs and five frozen hot dogs. The sales price for the two prepared hot dogs is \$5, and the sales price of the five frozen hot dogs is \$10. The package is sold for one non-itemized price of \$15. The sales price of the package is not taxable because the sales price of the taxable items (the two prepared hot dogs) is 50 percent or less of the total sales price of the package.

These rules are intended to implement Iowa Code section 423.2(8).

REVENUE DEPARTMENT[701](cont'd)

ITEM 2. Amend rule 701—231.4(423) as follows:

701—231.4(423) Sales of candy.

231.4(1) Definitions. ~~Sales of candy were excluded from exemption prior to July 1, 2004; however, the definition of “candy” applicable to the exclusion was slightly different from the definition set out in this rule. Reference rule 701—20.1(422,423). This rule and the following definitions apply to sales of candy on or after July 1, 2004.~~

a. to g. No change.

231.4(2) No change.

231.4(3) Bundled transaction including candy. ~~“Bundled transaction” is defined as the retail sale of two or more products, except real property and services to real property, where (1) the products are otherwise distinct and identifiable and (2) the products are sold for one non-itemized price.~~

a. Candy and food. Products that are a combination of items that are defined as “candy” under this rule and items that are defined as “food and food ingredients” under rule 701—231.3(423) are “bundled transactions” when the items are distinct and identifiable and are sold for one non-itemized price, unless the seller’s sales price or purchase price of the candy accounts for 50 percent or less of the seller’s sales price or purchase price of the bundled transaction as provided under Iowa Code section 423.2(8) “d”(4). For example, a bag of multiple types of individually wrapped bars that is sold for one price is two or more distinct and identifiable products sold for one non-itemized price. For purposes of determining whether such a bag of individually wrapped bars is a “bundled transaction,” the following criteria apply:

(1) Ingredients listed separately.

1. If a package contains individually wrapped bars, drops, or pieces and the product label on the package separately lists the ingredients for each type of bar, drop, or piece included in the package, those bars, drops, or pieces that have “flour” listed as an ingredient are “food and food ingredients” and those bars, drops, or pieces which do not have “flour” listed as an ingredient are “candy.” The determination of whether the package as a whole meets the definition of “bundled transaction” is based on the percentage of bars, drops, or pieces that meet the definition of “food and food ingredient” as compared to the percentage of bars, drops, or pieces that meet the definition of “candy.”

2. Determining the percentage. For purposes of determining the percentage of the sales price or purchase price of the bars, drops, or pieces that meet the definition of “candy” as compared to all of the bars, drops, or pieces contained in the package, the retailer may presume that each bar, drop, or piece contained in the package has the same value.

3. Presumption of product amount. A retailer may presume that there is an equal number of each type of product contained in the package, unless the package clearly indicates otherwise.

~~EXAMPLE 1: Retailer A sells a package that contains 100 total pieces of food and food ingredients. There are ten different types of foods and food ingredients in the package. Eight of the types of food and food ingredients included in the package meet the definition of “candy,” while two of the types included do not meet the definition of “candy.” It is a reasonable presumption that 20 (2/10 times 100) of the pieces are not “candy” and 80 (8/10 times 100) of the pieces are “candy.” Therefore, since 80 percent of the product is “candy,” the retailer shall treat the entire package as a bundled transaction containing primarily “candy.” Sales tax is due on the sales price of the entire package. See Iowa Code section 423.2(8).~~

~~EXAMPLE 2: Retailer B sells bulk food and food ingredients by the pound. Each food and food ingredient is in a separate bin or container. Some of the food and food ingredients are “candy” and some of them are not because they contain flour. However, regardless of the items chosen, the retailer charges the customer \$3.49/lb. Customer C selects some items that are “candy” and some that are not and puts them in a bag. Since some of the items in the bag are “candy,” the retailer shall treat the entire package as a bundled transaction containing primarily “candy,” unless the retailer ascertains that 50 percent or less of the items in the bag are “candy.” Even if the retailer ascertains that 50 percent or less of the items in the bag are “candy,” sales tax is due on the sales price of the entire package the sales price or purchase price of the candy in the bag is less than 50 percent of the sales price or purchase price of the entire bag. See Iowa Code section 423.2(8).~~

REVENUE DEPARTMENT[701](cont'd)

(2) Ingredients listed together. If a package contains individually wrapped bars, drops, or pieces and all of the ingredients for each of the products included in the package are listed together, as opposed to being listed separately by each product included as explained in subparagraph (1) above, and even if the ingredient lists “flour” as an ingredient, the product will be treated as “candy,” unless the retailer is able to ascertain that ~~50 percent or less of the products are “candy.” Even if the retailer ascertains that 50 percent or less of the items in the bag are “candy,” sales tax is due on the sales price of the entire package~~ the sales price or purchase price of the candy in the package is less than 50 percent of the sales price or purchase price of the entire bag. See Iowa Code section 423.2(8).

The retailer may presume that each bar, drop, or piece contained in the package has the same value. The retailer may presume that there is an equal number of each type of product contained in the package, unless the package clearly indicates otherwise.

b. Combination of ingredients. Products whose ingredients are a combination of various unwrapped food ingredients that alone are not “candy,” along with unwrapped food ingredients that alone are “candy,” such as breakfast cereal and trail mix with candy pieces, are considered “food and food ingredients,” ~~but~~ and are not “candy.” Sales of these products are not “bundled transactions” because there are not two or more distinct and identifiable products being sold. The combination of the ingredients results in a single product.

This rule is intended to implement ~~2011~~ Iowa Code ~~subsection~~ sections 423.2(8) and 423.3(57).

ARC 5512C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Rule making related to petitions for rule making

The Administrative Services Department hereby amends Chapter 5, "Petitions for Rule Making," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 8A.104, 17A.3 and 17A.4.

State or Federal Law Implemented

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

Purpose and Summary

These amendments are adopted as a result of changes made in 2020 Iowa Acts, House File 2389, relating to a submission of a petition of rule making and its disposition to the Administrative Rules Review Committee. The petition and disposition shall be submitted to the Committee. These amendments comport with Iowa Code section 17A.7 as amended by 2020 Iowa Acts, House File 2389.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5378C**. A public hearing was held on February 2, 2021, at 12 noon, via conference call. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on February 17, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department's rules concerning waivers.

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).

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 5.1(3) as follows:

5.1(3) Denial. The director may deny a petition because it does not substantially conform to the required form. Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the department's rejection of the petition.

ITEM 2. Adopt the following new subrule 5.1(4):

5.1(4) Submission to administrative rules review committee. The department shall submit a petition for rule making and the department's disposition of the petition to the administrative rules review committee.

ITEM 3. Amend rule 11—5.4(17A) as follows:

11—5.4(17A) Department consideration.

~~5.4(1) Within 14 days after the filing of a petition, the department must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee.~~ Upon request by petitioner in the petition, the department must schedule a brief and informal meeting between the petitioner and the department to discuss the petition. The department may request the petitioner to submit additional information or argument concerning the petition. The department may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the department by any person.

5.4(2) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the department must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. The petitioner shall be deemed notified of the denial or grant of the petition on the date when the department mails or delivers the required notification to the petitioner.

~~5.4(3) Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the department's rejection of the petition.~~

[Filed 2/18/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5513C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to entrepreneur investment awards program

The Economic Development Authority hereby amends Chapter 102, "Entrepreneur Investment Awards Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15E.362.

Purpose and Summary

The Entrepreneur Investment Awards Program assists service providers that provide technical and financial assistance to entrepreneurs and startup companies seeking to create, locate, or expand a business in the state. Under the current rules for the program, applications are reviewed by the Iowa Innovation Corporation, which had been established pursuant to Iowa Code section 15.107. In 2019, the Legislature amended Iowa Code section 15.107, updating the mission of the corporation, which is now a bioscience development corporation. These amendments streamline the application process by eliminating review by the Iowa Innovation Corporation and initial approval by the Technology and Commercialization Committee of the Iowa Economic Development Authority Board. Instead, a committee of reviewers appointed by the Director will review applications and make funding recommendations to the Board. The changes also provide the Authority more flexibility to announce an application filing window as funding is made available and provide for monitoring by the Authority, rather than by the Iowa Innovation Corporation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5386C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority on February 19, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

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 14, 2021.

The following rule-making actions are adopted:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 1. Amend rule 261—102.3(15E) as follows:

261—102.3(15E) Definitions. As used in this chapter, unless the context otherwise requires:

“*Applicant*” means a person applying to the authority for financial assistance under the program.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Business development services*” includes but is not limited to corporate development services, business model development services, business planning services, marketing services, financial strategies and management services, mentoring and management coaching, and networking services.

“*Committee*” means ~~the technology commercialization committee established by the board pursuant to 261—Chapter 4~~ a committee of application reviewers appointed by the director.

“*Corporation*” means ~~the Iowa innovation corporation created pursuant to Iowa Code section 15.107.~~

“*Deliverables*” means the performance of duties or other obligations required of an applicant under a contract entered into with the authority in consideration for the receipt of financial assistance under the program. At a minimum, “deliverables” includes the continued maintenance of all initial eligibility requirements for the duration of a contract entered into under the program and may include such other terms and conditions as the authority deems necessary to effectuate the legislative intent of the program or to protect the interest of taxpayers.

“*Director*” means the director of the authority.

“*Eligible entrepreneurial assistance provider*” or “*service provider*” means a person meeting the requirements of rule 261—102.6(15E).

“*Financial assistance*” means the same as defined in Iowa Code section 15.327.

“*Fund*” means the entrepreneur investment awards program fund created pursuant to Iowa Code section 15E.363.

“*Iowa-based business*” means a service provider whose principal place of operations is in Iowa and that is actively providing business development services in the state.

“*Operating costs*” means the expenses associated with administering a service provider’s activities on a day-to-day basis. “Operating costs” includes both fixed costs and variable costs. “Operating costs” does not include expenses associated with non-operating activities such as interest expenses, repayment of principal, or moneys invested by the service provider in clients’ businesses or in other ventures.

“*Program*” means the entrepreneur investment awards program established pursuant to Iowa Code section 15E.362.

ITEM 2. Amend subrule 102.4(2) as follows:

102.4(2) Application and award procedures. Eligible service providers may submit applications to the authority. The applications will receive an initial review to confirm program eligibility before being sent to the committee for a recommendation on funding. The committee will provide its recommendation to the board for a final determination on funding. The board may approve, deny, or defer each application for financial assistance under the program. The board will consider applications for financial assistance during the annual filing window described in subrule ~~102.4(5)~~ 102.4(4). The amount of financial assistance awarded to a service provider is within the discretion of the authority as determined by the board. If the board approves an award of financial assistance for a service provider, the authority will prepare a required contract specifying the terms and conditions under which financial assistance is provided to the service provider.

ITEM 3. Amend subrule 102.4(3) as follows:

102.4(3) Delegation of certain administrative functions to the corporation Review procedure. The authority will delegate certain administrative functions of the program to the corporation. The functions that will be delegated are:

a. ~~The initial application review process, including an analysis of whether the service provider meets all requirements of eligibility under the program. In analyzing an applicant’s eligibility, the~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~corporation~~ The committee shall verify that all objective criteria for eligibility are met as described in subrule 102.6(1) and shall provide an opinion as to whether and to what extent the applicant meets the subjective criteria described in subrule 102.6(2). The analysis of eligibility shall be compiled in report form and submitted to the committee for its use in making a recommendation and to the board for its use in making a final determination.

~~b. The formulation of deliverables to be required under the contract. The corporation~~ The committee shall recommend to the authority the terms and conditions to be included in the contract in consideration for receipt of the grant funds.

~~e. The tracking and monitoring of the service provider's performance under a program contract, including an analysis of whether the service provider's deliverables meet all requirements of the contract and including an evaluation of the value added by the service provider to the businesses of entrepreneurs. The evaluation shall be provided by the corporation in furtherance of the program review and report required of the authority pursuant to Iowa Code section 15E.362.~~

ITEM 4. Rescind subrule **102.4(4)**.

ITEM 5. Renumber subrules **102.4(5)** and **102.4(6)** as **102.4(4)** and **102.4(5)**.

ITEM 6. Amend renumbered subrule 102.4(4) as follows:

102.4(4) Annual filing window. In order to facilitate the competitive application and scoring process described in rule 261—102.6(15E), the authority and the corporation will accept applications for financial assistance only during the annual filing window. This filing window shall be from May 15 to June 1 of each calendar year. During the month of June, the authority and the corporation will process the applications and prepare them for consideration by the committee and the board at the first monthly meeting of the committee and the board following June 30 of each year. ~~The authority may adjust the annual applications will be accepted only during the established application period, or periods, as identified by the authority on its website during each fiscal year in which funding is available. The authority may adjust the filing window dates under extenuating circumstances and will notify affected parties of such circumstances.~~

ITEM 7. Amend subrule 102.7(1) as follows:

102.7(1) Contract required. An applicant awarded financial assistance under the program shall enter into a contract with the authority for the receipt of such funds. The authority will include certain deliverables in the contract as recommended by the ~~corporation and will delegate to the corporation~~ the tracking and monitoring of committee. The authority will track and monitor all contract provisions including an analysis of whether the service provider's deliverables meet all requirements of the contract and including an evaluation of the value added by the service provider to the businesses of entrepreneurs. ~~The corporation shall provide regular reports to the authority on the progress of the applicant and on the results of the tracking and monitoring.~~ The authority will make the final determination as to compliance with the terms of the contract and will make the final determination as to whether and when to disburse funds to the applicant.

[Filed 2/19/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5487C

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed****Rule making related to home health agency services**

The Human Services Department hereby amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249A and Public Law 116-136, Section 3708.

Purpose and Summary

These amendments allow physician assistants, nurse practitioners, and clinical nurse specialists to order and sign treatment plans for home health agency services provided to Iowa Medicaid members. These rules are being implemented based on Section 3708 of the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136), which is applicable to services provided on or after March 1, 2020.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 16, 2020, as **ARC 5336C**. The Department received responses from four respondents/organizations. All four respondents supported the Department’s amendments to Chapter 78, which allow physician assistants, nurse practitioners, and clinical nurse specialists to order and sign treatment plans for home health agency services provided to Iowa Medicaid members.

However, two respondents recommended technical changes to other Department rules to ensure that they align with federal home health agency regulations and the authority granted under the CARES Act. The respondents’ comments suggesting changes to these rules and the Department’s responses to these comments follow:

Comment 1: The respondents recommended changes to rule 441—79.3(249A), Maintenance of Records by Provider of Service. The respondents suggested adding the phrase “nurse practitioner, physician assistant, or clinical nurse specialist” after the word “physician” in paragraph “4” of subparagraph 79.3(2)“d”(27) with regard to orders for home health agency services.

Department response: The Department has made the recommended change to 79.3(2)“d”(27)“4.”

Comment 2: The respondents also recommended that the Department amend rules about orders for other home health agency services in Chapters 83 and 177. The respondents stated that these changes would be comparable to the new authority provided by Section 3708 of the CARES Act and that the amended language would ensure better access to care for their patients and better recognize the role of nurse practitioners. More specifically, the respondents suggested adding “nurse practitioner” and “clinical nurse specialist” in paragraph 83.2(1)“e” and adding the phrase “nurse practitioner, clinical nurse specialist, or physician assistant” after the word “physician” in paragraphs 83.61(1)“k” and 83.82(1)“j.” All three of these paragraphs relate to orders for interim medical monitoring and treatment for eligible Medicaid recipients. The respondents also recommended adding the phrase “nurse practitioner, physician assistant, or clinical nurse specialist” after the word “physician” wherever it appears in rule 441—177.3(249), Service Criteria.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Department response: The Department has amended paragraphs 83.2(1)“e,” 83.61(1)“k,” and 83.82(1)“j” as requested regarding orders for interim medical monitoring and treatment. However, the Department is unable to make the requested changes to rule 441—177.3(249A). Making these changes would require a change to the In-Home Health-Related Care (IHHRC) program statute, and the Department does not have the authority to amend statute.

Except for the changes described above, no changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on February 11, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—78.9(249A) as follows:

441—78.9(249A) Home health agencies. Payment shall be approved for medically necessary home health agency services prescribed by a physician, nurse practitioner, clinical nurse specialist, or physician assistant in a plan of home health care provided by a Medicare-certified home health agency.

The number of hours of home health agency services shall be reasonable and appropriate to meet an established medical need of the member that cannot be met by a family member, significant other, friend, or neighbor. Services must be medically necessary in the individual case and be related to a diagnosed medical impairment or disability.

The member need not be homebound to be eligible for home health agency services; however, the services provided by a home health agency shall only be covered when provided in the member's residence with the following exception. Private duty nursing and personal care services for persons aged 20 and under as described at 78.9(10)“a” may be provided in settings other than the member's residence when medically necessary.

Medicaid members of home health agency services need not first require skilled nursing care to be entitled to home health aide services.

Further limitations related to specific components of home health agency services are noted in subrules 78.9(3) to 78.9(10).

HUMAN SERVICES DEPARTMENT[441](cont'd)

Payment shall be made on an encounter basis. An encounter is defined as separately identifiable hours in which home health agency staff provide continuous service to a member.

Payment for supplies shall be approved when the supplies are incidental to the patient's care, e.g., syringes for injections, and do not exceed \$15 per month. Dressings, durable medical equipment, and other supplies shall be obtained from a durable medical equipment dealer or pharmacy. Payment of supplies may be made to home health agencies when a durable medical equipment dealer or pharmacy is not available in the member's community.

Payment may be made for restorative and maintenance home health agency services.

Payment may be made for teaching, training, and counseling in the provision of health care services.

Treatment plans for these services shall additionally reflect: to whom the services are to be provided (patient, family member, etc.); prior teaching training, or counseling provided; medical necessity for the rendered service; identification of specific services and goals; date of onset of the teaching, training, or counseling; frequency of services; progress of member in response to treatment; and estimated length of time these services will be needed.

The following are not covered: services provided in the home health agency office, homemaker services, well child care and supervision, and medical equipment rental or purchase.

Services shall be authorized by a physician, nurse practitioner, clinical nurse specialist, or physician assistant, evidenced by the physician's, nurse practitioner's, clinical nurse specialist's, or physician assistant's signature and date on a plan of treatment.

78.9(1) Treatment plan. A plan of treatment shall be completed prior to the start of care and at a minimum reviewed every 60 days thereafter. There must be a face-to-face encounter between a physician, a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant and the Medicaid member no more than 90 days before or 30 days after the start of service. The plan of care shall support the medical necessity and intensity of services to be provided by reflecting the following information:

a. to g. No change.

h. Member's medical condition as reflected by the following information, if applicable:

(1) and (2) No change.

(3) Date last seen by a physician, nurse practitioner, clinical nurse specialist, or physician assistant.

(4) to (10) No change.

i. to k. No change.

l. Physician's, nurse practitioner's, clinical nurse specialist's, or physician assistant's signature and date. The plan of care must be signed and dated by the physician, nurse practitioner, clinical nurse specialist, or physician assistant before the claim for service is submitted for reimbursement.

78.9(2) No change.

78.9(3) Skilled nursing services. Skilled nursing services are services that when performed by a home health agency require a licensed registered nurse or licensed practical nurse to perform. Situations when a service can be safely performed by the member or other nonskilled person who has received the proper training or instruction or when there is no one else to perform the service are not considered a "skilled nursing service." Skilled nursing services shall be available only on an intermittent basis. Intermittent services for skilled nursing services shall be defined as a medically predictable recurring need requiring a skilled nursing service at least once every 60 days, not to exceed five days per week (except as provided below), with an attempt to have a predictable end. Daily visits (six or seven days per week) that are reasonable and necessary and show an attempt to have a predictable end shall be covered for up to three weeks. Coverage of additional daily visits beyond the initial anticipated time frame may be appropriate for a short period of time, based on the medical necessity of service. Medical documentation shall be submitted justifying the need for continued visits, including the physician's, nurse practitioner's, clinical nurse specialist's, or physician assistant's estimate of the length of time that additional visits will be necessary. Daily skilled nursing visits or multiple daily visits for wound care or insulin injections shall be covered when ordered by a physician, nurse practitioner, clinical nurse specialist, or a physician assistant and included in the plan of care. Other daily skilled nursing visits

HUMAN SERVICES DEPARTMENT[441](cont'd)

which are ordered for an indefinite period of time and designated as daily skilled nursing care do not meet the intermittent definition and shall be denied.

Skilled nursing services shall be evaluated based on the complexity of the service and the condition of the patient.

Private duty nursing for persons aged 21 and over is not a covered service. See subrule 78.9(10) for guidelines for private duty nursing for persons aged 20 or under.

78.9(4) *Physical therapy services.* Payment shall be made for physical therapy services when the services relate directly to an active written treatment plan, follow a treatment plan established by the physician, nurse practitioner, clinical nurse specialist, or physician assistant after any needed consultation with the qualified physical therapist, are reasonable and necessary to the treatment of the patient's illness or injury, and meet the guidelines defined for restorative, maintenance, or trial therapy as set forth in subrule 78.19(1), paragraphs "a" and "b."

For physical therapy services, the treatment plan shall additionally reflect goals, modalities of treatment, date of onset of conditions being treated, restorative potential, and progress notes.

78.9(5) *Occupational therapy services.* Payment shall be made for occupational therapy services when the services relate directly to an active written treatment plan, follow a treatment plan established by the physician, nurse practitioner, clinical nurse specialist, or physician assistant, are reasonable and necessary to the treatment of the patient's illness or injury, and meet the guidelines defined for restorative, maintenance, or trial therapy as set forth in subrule 78.19(1), paragraphs "a" and "c."

For occupational therapy services, the treatment plan shall additionally reflect goals, modalities of treatment, date of onset of conditions being treated, restorative potential, and progress notes.

78.9(6) *Speech therapy services.* Payment shall be made for speech therapy services when the services relate directly to an active written treatment plan, follow a treatment plan established by the physician, nurse practitioner, clinical nurse specialist, or physician assistant, are reasonable and necessary to the treatment of the patient's illness or injury, and meet the guidelines defined for restorative, maintenance, or trial therapy as set forth in subrule 78.19(1), paragraphs "a" and "d."

For speech therapy services, the treatment plan shall additionally reflect goals, modalities of treatment, date of onset of conditions being treated, restorative potential, and progress notes.

78.9(7) *Home health aide services.* Payment shall be made for unskilled services provided by a home health aide if the following conditions are met:

a. The service as well as the frequency and duration are stated in a written plan of treatment established by a physician, nurse practitioner, clinical nurse specialist, or physician assistant. The home health agency is encouraged to collaborate with the member, or in the case of a child with the child's caregiver, in the development and implementation of the plan of treatment.

b. No change.

c. Services shall be provided on an intermittent basis. "Intermittent basis" for home health agency services is defined as services that are usually two to three times a week for two to three hours at a time. Services provided for four to seven days per week, not to exceed 28 hours per week, when ordered by a physician, nurse practitioner, clinical nurse specialist, or physician assistant and included in a plan of care shall be allowed as intermittent services. Increased services provided when medically necessary due to unusual circumstances on a short-term basis of two to three weeks may also be allowed as intermittent services when the home health agency documents the need for the excessive time required for home health aide services.

Home health aide daily care may be provided for persons employed or attending school whose disabling conditions require the persons to be assisted with morning and evening activities of daily living in order to support their independent living.

Personal care services include the activities of daily living, e.g., helping the member to bathe, get in and out of bed, care for hair and teeth, exercise, and take medications specifically ordered by the physician, but ordinarily self-administered, and retraining the member in necessary self-help skills.

Certain household services may be performed by the aide in order to prevent or postpone the member's institutionalization when the primary need of the member for home health aide services furnished is for personal care. If household services are incidental and do not substantially increase

HUMAN SERVICES DEPARTMENT[441](cont'd)

the time spent by the aide in the home, the entire visit is considered a covered service. Domestic or housekeeping services which are not related to patient care are not a covered service if personal care is not rendered during the visit.

For home health aide services, the treatment plan shall additionally reflect the number of hours per visit and the living arrangement of the member, e.g., lives alone or with family.

78.9(8) to **78.9(11)** No change.

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

ITEM 2. Amend subparagraph **79.3(2)“d”(27)** as follows:

(27) Home health agency services:

1. to 3. No change.

4. Physician, nurse practitioner, physician assistant, or clinical nurse specialist orders or medical orders.

ITEM 3. Amend paragraph **83.2(1)“e”** as follows:

e. To be eligible for interim medical monitoring and treatment services the consumer must be:

(1) to (3) No change.

(4) In need of interim medical monitoring and treatment as ordered by a physician, nurse practitioner, clinical nurse specialist, or a physician assistant.

ITEM 4. Amend paragraph **83.61(1)“k”** as follows:

k. To be eligible for interim medical monitoring and treatment services the consumer must be:

(1) to (3) No change.

(4) In need of interim medical monitoring and treatment as ordered by a physician, nurse practitioner, clinical nurse specialist, or physician assistant.

ITEM 5. Amend paragraph **83.82(1)“j”** as follows:

j. To be eligible for interim medical monitoring and treatment services the consumer must be:

(1) to (3) No change.

(4) In need of interim medical monitoring and treatment as ordered by a physician, nurse practitioner, clinical nurse specialist, or physician assistant.

[Filed 2/16/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5488C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to child development homes and child care homes

The Human Services Department hereby amends Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 237.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 237 and 2020 Iowa Acts, House File 2485.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

This rule making modifies rules to allow child development homes to care for their total capacity of children without an assistant during an emergency school closing. Rules are also updated to ensure child development homes and child care provider agreements are in compliance with federal regulations requiring procedures to be in place regarding the inspection and handling of hazardous materials and biocontaminants by the Department.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 16, 2020, as **ARC 5337C**. No public comments were received. No changes from the Notice have been made.

A reference to indicate that the Department is implementing this change because of 2020 Iowa Acts, House File 2485, has been added to the State or Federal Law Implemented section of the preamble because members of the Administrative Rules Review Committee have requested that agencies identify the specific legislation on which rule makings are based.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on February 11, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 1, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 110.6(3) as follows:

110.6(3) *Exception for emergency school closing.* On days when schools start late, are dismissed early, or are canceled or closed due to emergencies such as inclement weather, or physical plant failure, structural damage, or public health emergency, a child development home may have additional children present in accordance with the authorization for the registration category of the home and subject to all of the following conditions:

a. The child development home has prior written approval from the parent or guardian of each child present in the home concerning the presence of additional children in the home.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~b.~~—The child development home has a department-approved assistant, aged 14 or older, on duty to assist the care provider, as required for the registration category of the home.

~~e.~~ b. One or more of the following conditions are applicable to each of the additional children present in the child development home:

- (1) The home provides care to the child on a regular basis for periods of less than two hours.
- (2) If the child were not present in the child development home, the child would be unattended.
- (3) The home regularly provides care to a sibling of the child.

~~d.~~ c. The provider shall maintain a written record including the date of the emergency school closing, the reason for the closing, and the number of children in care on that date.

ITEM 2. Adopt the following new paragraph **110.8(3)“e”**:

e. The provider shall establish procedures related to infectious disease control and handling of any bodily excrement or discharge, including blood and breast milk. Soiled diapers shall be stored in containers separate from other waste.

ITEM 3. Amend paragraph **110.14(1)“f”** as follows:

f. If more than eight children are present at any one time for a period of more than two hours, the provider shall be assisted by a department-approved assistant who is at least 14 years old, unless extra children are present as a result of an emergency school closing.

ITEM 4. Amend paragraph **110.15(1)“e”** as follows:

e. No more than 16 children shall be present at any one time when an emergency school closing is in effect. If more than eight children are present at any one time due to an emergency school closing exception, the provider shall be assisted by a department-approved assistant who is at least 18 years of age.

ITEM 5. Adopt the following new paragraph **120.8(3)“e”**:

e. The provider shall establish procedures related to infectious disease control and handling of any bodily excrement or discharge, including blood and breast milk. Soiled diapers shall be stored in containers separate from other waste.

[Filed 2/14/21, effective 5/1/21]

[Published 3/10/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5515C

INSURANCE DIVISION[191]

Adopted and Filed

Rule making related to review of rules

The Insurance Division hereby amends Chapter 2, “Public Records and Fair Information Practices,” Chapter 5, “Regulation of Insurers—General Provisions,” Chapter 40, “Health Maintenance Organizations,” Chapter 41, “Limited Service Organizations,” Chapter 44, “Smoker/Nonsmoker Mortality Tables for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits,” Chapter 45, “Insurance Holding Company Systems,” Chapter 46, “Mutual Holding Companies,” Chapter 48, “Viatical and Life Settlements,” Chapter 99, “Limited Purpose Subsidiary Life Insurance Companies,” and Chapter 100, “Sales of Cemetery Merchandise, Funeral Merchandise and Funeral Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 505.8.

INSURANCE DIVISION[191](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 22, 505, 507, 508, 508E, 514B, 521A and 523A.

Purpose and Summary

These amendments, which are explained more specifically below, are a result of the Division's review of rules. The amendments to Chapters 2, 5, 40, 41, 44, 45, 46, 48, 99, and 100 generally update the chapters by removing duplicative definitions and unnecessary language, correcting statute references, conforming to current Iowa Code language, and reflecting current practices.

Subrule 2.5(3) concerns release of confidential records by the Division. The Division has determined that subrule 2.5(3) is unnecessary and that the procedure for records protected under Iowa Code chapter 22 is already comprehensively addressed in that Iowa Code chapter.

Subrule 2.12(16) is being amended to reflect the consolidation into one subrule of license sanctions as a result of noncompliance with child support or state debt.

Rule 191—5.1(505,507,508,515) is being rescinded and replaced with definitions, because existing rule 191—5.1(505,507,508,515) is inconsistent with Iowa Code section 507.10.

Rule 191—5.11(511) is being rescinded and reserved, because Iowa Code section 511.8 comprehensively addresses the issue.

Rules 191—5.23(507C) and 191—5.24(507C) are being rescinded and reserved, because the implementation of Chapter 110 covers insurance companies in hazardous financial condition. Specifically, rules 191—110.4(505) and 191—110.5(505) address this issue.

Subrule 15.13(1) is being amended to correct the appendix reference in paragraph 15.13(1)“b.”

Subrule 48.3(2) is being amended to be consistent with statute.

Subrule 100.19(1) is being amended to remove paragraph 100.19(1)“b” to conform to Iowa Code section 523A.203, which comprehensively addresses master trusts.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5389C**. No public comments were received. The following changes from the Notice have been made: A cross-reference was corrected in rule 191—40.2(514B) in Item 24. A new Item 28 was added to correct a similar cross-reference in rule 191—41.2(514B), and subsequent items were renumbered accordingly. The word “rules” was changed to “definitions” in the introductory paragraph of rule 191—46.2(521A) in Item 36.

Adoption of Rule Making

This rule making was adopted by Douglas M. Ommen, Iowa Insurance Commissioner, on February 18, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

INSURANCE DIVISION[191](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 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind subrule **2.5(3)**.

ITEM 2. Amend subrule 2.12(16) as follows:

2.12(16) Determination of any suspension of an insurance producer's or other licensee's pending application for licensure, pending request for renewal, or current license, when the suspension is related to failure to pay child support, foster care, or state debt, pursuant to rule 191—10.21(252J) or 191—10.23(82GA, SF2428). Notwithstanding any statutory confidentiality provision, the division may share information with the child support recovery unit or the centralized collection unit of the department of revenue, through manual or automated means, for the sole purpose of identifying registrants, applicants or licensees subject to enforcement under Iowa Code chapter 252J or 272D, respectively.

ITEM 3. Rescind rule 191—5.1(507) and adopt the following **new** rule in lieu thereof:

191—5.1(505,507,508,515) Definitions. The definitions in rule 191—1.1(502,505) apply to this chapter. This rule is intended to implement Iowa Code chapters 505, 507, 508, and 515.

ITEM 4. Amend rule 191—5.2(505,507), introductory paragraph, as follows:

191—5.2(505,507) Examination for admission. Any foreign or alien insurance company seeking to be admitted to do business in the state of Iowa shall, at the discretion of the division of insurance, be subject to either or both of the following:

ITEM 5. Amend rule 191—5.5(505,515,520) as follows:

191—5.5(505,515,520) Maximum allowable premium volume. A domestic property/casualty insurer shall not cause the ratio of its net written premiums to its surplus as regards policyholders to exceed three to one without the approval of the commissioner of insurance.

ITEM 6. Amend subrule 5.6(3) as follows:

5.6(3) Bonds. At amortized cost, unless directed otherwise by the commissioner of insurance.

ITEM 7. Rescind and reserve rule **191—5.11(511)**.

ITEM 8. Amend rule 191—5.12(515), introductory paragraph, as follows:

191—5.12(515) Collateral loans. The collateral pledged to secure a loan must qualify as a legal investment for insurance companies before the loan it secures may so qualify [~~section 515.35(7)~~ Iowa Code section 515.35(3) "a"(2)]. The statute provides that a company may not invest in excess of 30 percent of its capital and funds in stocks and not more than 10 percent of its capital and surplus in the stock or bonds, or both, of any one corporation.

INSURANCE DIVISION[191](cont'd)

ITEM 9. Rescind and reserve rule **191—5.23(507C)**.

ITEM 10. Rescind and reserve rule **191—5.24(507C)**.

ITEM 11. Amend rule 191—5.26(508,515) as follows:

191—5.26(508,515) Participation in the NAIC Insurance Regulatory Information System.

5.26(1) No change.

5.26(2) Each domestic, foreign and alien insurer, except entities organized under Iowa Code chapters 512A, 512B, 514, 514B, 518 and 518A and those which write only in this state, who is authorized to transact insurance in this state shall annually on or before March 1 of each year, file with the National Association of Insurance Commissioners (NAIC) a copy of its annual statement convention blank, along with such additional filings as prescribed by the insurance commissioner for the preceding year. The information filed with the NAIC shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and the actuarial certification. Any amendments and addendums to the annual statement filing subsequently filed with the commissioner shall also be filed with the NAIC.

Foreign insurers that are domiciled in a state which has a law substantially similar to the requirement in the previous sentence shall be deemed in compliance with this rule.

5.26(3) to 5.26(5) No change.

5.26(6) Electronic filing. The annual financial statement filings required of domestic insurers pursuant to Iowa Code sections 508.11 and 515.63 and the quarterly statement filings required pursuant to rule 191—5.3(507,508,515) must be filed electronically with the National Association of Insurance Commissioners. Electronic filing shall include filing via the Internet or by diskette. The electronic filing must be prepared in accordance with the NAIC Directive to Companies, Coding Conventions, Field Names and Definitions, Data Elements, and Reporting Requirements for Annual/Quarterly Statement Submission on Diskettes. Electronic filings are in addition to and due at the time of the filing of the annual/quarterly financial statement blank with the National Association of Insurance Commissioners. Diskette filings do not need to be filed with the insurance division unless the insurer is directed by the insurance commissioner to submit the filing(s) on diskette. This diskette filing requirement does not apply to entities organized pursuant to Iowa Code chapters 512A, 512B, 514, 514B, 518, and 518A.

This rule is intended to implement Iowa Code sections 508.11 and 515.63.

ITEM 12. Amend rule 191—5.28(508,515,520) as follows:

191—5.28(508,515,518,518A,520) Risk-based capital and surplus. Capital and surplus requirements in Iowa Code chapters 508, 515, 518, 518A and 520 are minimums. The commissioner retains the discretion to require greater amounts than set forth in those chapters when the risk-based circumstances of a particular insurer, including the type, nature and volume of business being written, require it.

ITEM 13. Amend subrule 5.32(1) as follows:

5.32(1) Reason for promulgation. The insurance division is concerned that changes in economic conditions and other market variables could adversely affect domestic insurers having a high concentration of these investments. Accordingly, the division has concluded that a limitation on the percentage of total admitted assets that a domestic insurer may prudently invest in such obligations is reasonable, necessary and required in order to carry out the division's responsibilities under relevant statutory law.

The division understands that medium grade and lower grade obligations can have a place in a well diversified portfolio. However, it is also understood that the special risks associated with these investments require a high degree of management even when they are held within an aggregate limit. While this rule will leave all domestic insurers with authority to invest a substantial portion of their assets in medium grade and lower grade obligations, the prudent management of the attendant risk will remain an essential element of such investing.

INSURANCE DIVISION[191](cont'd)

ITEM 14. Amend subparagraph **5.33(7)“b”(1)** as follows:

(1) The commissioner shall post notice on the division's ~~Web site~~ website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least 30 days after posting the notice required by this subparagraph.

ITEM 15. Amend subrule 5.34(2) as follows:

5.34(2) Authority. This rule is issued pursuant to the authority vested in the commissioner of ~~insurance~~ under Iowa Code section 508.36. This rule will take effect for annual statements for the year 2004.

ITEM 16. Amend subparagraph **5.34(7)“a”(1)** as follows:

(1) In accordance with Iowa Code section 508.36, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of the opinion regarding the reserves. The memorandum shall be made available for examination by the commissioner upon request but shall be returned to the company after such examination and shall not be considered a record of the ~~insurance~~ division or subject to automatic filing with the commissioner.

ITEM 17. Amend rule 191—5.42(432) as follows:

191—5.42(432) Cash refund of premium tax. A cash refund of premium tax may be made to an insurance company that has paid a premium tax payment or prepayment and demonstrates an inability to recoup the funds paid via a credit, provided that the ~~insurance~~ division determines that a refund is appropriate. A claim for refund is a formal request made by the insurance company or its successor in interest to the ~~insurance~~ division for repayment of premium tax prepayments that were paid with the insurance company's previously filed tax return. The claim for refund shall not be filed with a premium tax prepayment, annual tax payment, or with other documents or forms submitted to the division.

5.42(1) Eligibility criteria. Upon the written application of an insurance company or its successor in interest, the ~~insurance~~ division shall authorize the department of revenue to make a cash refund to an insurer if:

a. to d. No change.

5.42(2) Application procedure. An insurance company may file a claim for a cash refund with the ~~insurance~~ division by stating in detail the reasons and facts and including supporting documents with the claim for a cash refund. These documents shall include but not be limited to:

a. to c. No change.

d. A certification from the chief executive officer stating that the company has no plans for writing business in the state of Iowa and agrees to notify the ~~insurance~~ division before writing any business in this state if the claim for refund is made pursuant to 5.42(1)“b.”

5.42(3) Appeals. If the claim for refund is denied and the applicant wishes to appeal the denial, the ~~insurance~~ division will consider an appeal to be timely if filed not later than 30 days following the date of denial.

5.42(4) No change.

This rule is intended to implement Iowa Code section 432.1(6).

ITEM 18. Amend subrule 5.43(1) as follows:

5.43(1) The requirement that a domestic insurer submit its contracts with managing general agents for approval of the commissioner of ~~insurance~~ set forth in Iowa Code section 510.2 remains in effect after July 1, 1991.

ITEM 19. Amend subrule 5.43(5) as follows:

5.43(5) The amount of claims in excess of which a person is authorized to adjust or pay for purposes of the definition of “managing general agent” in Iowa Code section ~~510.2A(4)“a”(3)“a”~~ 510.1B(4)“a”(3)(a) is \$15,000 per claim.

INSURANCE DIVISION[191](cont'd)

ITEM 20. Amend subrule 5.52(1) as follows:

5.52(1) Every reporting financial institution shall file the reports required by rule 191—5.53(535A) with the director of the Iowa housing finance authority, ~~Des Moines, Iowa 50319,~~ and with the commissioner of insurance, ~~Des Moines, Iowa 50319,~~ on or before January 15, 1980, and each year thereafter by January 15, and shall maintain a copy of each report at the office where its principal financial records are maintained for a period of five years after it is filed.

ITEM 21. Amend subrule 5.54(1), introductory paragraph, as follows:

5.54(1) Reporting financial institutions shall file with the commissioner of insurance on or before March 15 of each year Disclosure Form B or a form similar thereto the following additional information with respect to loans for the purchase of residential property made during the preceding year:

ITEM 22. Amend subrule 5.54(2) as follows:

5.54(2) Reporting financial institutions are not required to file the additional information required by subrule 5.54(1) for any loan guaranteed in whole or part under any program of the United States or any of its agencies or instrumentalities, if:

a. to c. No change.

d. The reporting financial institution files with the commissioner of insurance on or before March 15 of each year its verified statement, signed by an officer of the reporting financial institution, that it has made loans under such a program and that it has filed the report required by ~~rule 5.54(2)~~ this subrule for each such loan not exempted by this rule.

ITEM 23. Amend rule 191—5.55(535A) as follows:

191—5.55(535A) Written complaints. Any person who has reason to believe that a financial institution has failed to comply with the provisions of Iowa Code chapter 535A or these rules may file a written complaint with the insurance division, ~~Des Moines, Iowa 50319,~~ or bring an action in the district court in accordance with Iowa Code chapter 535A.

ITEM 24. Amend rule 191—40.2(514B) as follows:

191—40.2(514B) Application. An application on forms provided by the insurance division accompanied by a filing fee of \$100 payable to State Treasurer, State of Iowa, shall be completed by an officer or authorized representative of the health maintenance organization. The application with copies in duplicate shall be verified and shall be accompanied by the information found in Iowa Code section ~~514B.3(1 to 14)~~ 514B.3(1). An application shall not be deemed to be filed until all information necessary to properly process said application has been received by the commissioner. See ~~40.11(514B)~~ 191—40.11(514B).

An amendment to the application form shall be filed in the same manner as the application and approved by the commissioner before the change proposed by the amendment is effective.

ITEM 25. Amend paragraph **40.10(1)“e”** as follows:

e. Failure of the enrollee to pay deductible or coinsurance charges permitted under Iowa Code section ~~514B.5(3).~~ 514B.5(1)“c.”

ITEM 26. Amend rule 191—40.19(514B) as follows:

191—40.19(514B) Producers' duties. In order to qualify for solicitation, enrollment, or delivery of a certificate of membership or policy in a health maintenance organization, a producer must comply with the licensing rules set forth in 191—Chapter 10 of the Iowa Administrative Code and in particular submit to an examination to determine the applicant's competence to sell accident and health insurance as described in rule 191—10.7(522), classification 6 pass the accident and health or sickness insurance lines of authority examination.

ITEM 27. Amend **191—Chapter 40**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 514B, 514C, 514F, 514J and 1999 Iowa Acts, Senate File 276 514K.

INSURANCE DIVISION[191](cont'd)

ITEM 28. Amend rule 191—41.2(514B) as follows:

191—41.2(514B) Application. An application on forms provided by the insurance division accompanied by a filing fee of \$100 payable to State Treasurer, State of Iowa, shall be completed by an officer or authorized representative of the LSO. The application with copies in duplicate shall be executed in conformance with rule 191—41.10(514B) and shall be accompanied by the information found in Iowa Code ~~sections 514B.3(1) to 514B.3(14)~~ section 514B.3(1). An application shall not be deemed to be filed until all information necessary to properly process said application has been received by the commissioner, as indicated in rule 191—41.10(514B). Amendments to the application form shall be filed in the same manner as the application and approved by the commissioner before the change proposed by the amendment is effective.

ITEM 29. Amend paragraph **41.9(1)“e”** as follows:

e. Failure of the enrollee to pay deductible or coinsurance charges permitted under Iowa Code section ~~514B.5(3)~~. 514B.5(1)“c.”

ITEM 30. Amend rule 191—41.17(514B) as follows:

191—41.17(514B) Producers’ duties. In order to qualify for solicitation, enrollment, or delivery of a certificate of membership or policy in an LSO, a producer must comply with the licensing rules set forth in 191—Chapter 10 ~~of the Iowa Administrative Code~~ and in particular ~~submit to an examination to determine the applicant’s competence to sell accident and health insurance as described in rule 191—10.7(522), qualification 6~~ pass the accident and health or sickness insurance line of authority examination.

ITEM 31. Amend rule 191—44.3(508) as follows:

191—44.3(508) Alternate tables.

44.3(1) In determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for any policy of insurance delivered or issued for delivery in this state after the operative date of Iowa Code section ~~508.37(6)“k”~~ 508.37(7)“k” for that policy form and before January 1, 1989, at the option of the company and subject to the conditions stated in rule ~~44.4(508)~~ 191—44.4(508):

a. and *b.* No change.

For any category of insurance issued on female lives with minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits determined using the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables, such minimum values may be calculated according to an age not more than six years younger than the actual age of the insured. Further, the substitution of the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables is available only if made for each policy of insurance on a policy form delivered or issued for delivery on or after the operative date for that policy form and before a date not later than January 1, 1989.

44.3(2) In determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for any policy of insurance delivered or issued for delivery in this state after the operative date of Iowa Code section ~~508.37(6)“k”~~ 508.37(7)“k” for that policy form, at the option of the company and subject to the conditions stated in rule ~~44.4(508)~~ 191—44.4(508):

a. and *b.* No change.

ITEM 32. Amend rule 191—45.2(521A) as follows:

191—45.2(521A) Definitions. ~~As used in these rules~~ In addition to the definitions in Iowa Code section 521A.1 and 191—1.1(502,505), the following rules apply to this chapter, unless otherwise required by the context:

45.2(1) “*Executive officer*” means any individual charged with active management and control in an executive capacity (including a president, vice-president, treasurer, secretary, controller, and any other

INSURANCE DIVISION[191](cont'd)

individual performing functions corresponding to those performed by the foregoing officers) of a person, whether incorporated or unincorporated.

45.2(2) "Foreign insurer" shall include an alien insurer except where clearly noted otherwise.

45.2(3) "Ultimate controlling person" means that person who is not controlled by any other person.

45.2(4) Other terms found in these rules and in Iowa Code section 521A.1 entitled "Definitions" shall retain the meaning as found in such section.

ITEM 33. Amend 191—Chapter 45, Form A, Item 12, paragraph (c), as follows:

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto; any proposed employment, consultation, advisory or management contracts concerning the insurer; annual reports to the stockholders of the insurer and the applicant for the last two fiscal years; and any additional documents or papers required by Form A or regulations sections 0.04 and 0.06.

ITEM 34. Amend 191—Chapter 45, Form A, Item 14, Signature, as follows:

SIGNATURE

Pursuant to the requirements of Iowa Code section 521A.3 and Regulation 3.01,

_____ has caused this application to be duly signed on its

(Name of Applicant)

behalf in the City of _____ and State of _____, on the _____ day of _____, 20 _____.

(SEAL)

(Name of Applicant)

By _____

(Name)

(Title)

Attest:

(Signature of Officer)

(Title)

ITEM 35. Amend rule 191—46.1(521A) as follows:

191—46.1(521A) Purpose. This chapter is intended to implement the provisions of Iowa Code Supplement section 521A.14 as amended by 1996 Iowa Acts, House File 2363, to provide for:

46.1(1) The formation of a mutual insurance holding company through an application process subject to regulation by the division of insurance. A domestic mutual insurance company may reorganize by forming a mutual insurance holding company based upon a mutual plan. The reorganized insurance company shall continue, without interruption, its corporate existence as a stock insurance company subsidiary to the mutual insurance holding company or as a stock insurance company subsidiary to an intermediate holding company which is subsidiary to the mutual insurance holding company.

46.1(2) The reorganization of a domestic mutual insurance company by merging its policyholders' membership interests into a mutual insurance holding company and continuing, without interruption, the corporate existence of the reorganized insurance company as a stock insurance company subsidiary to the mutual insurance holding company or as a stock insurance company subsidiary to an intermediate holding company which is a subsidiary to the mutual insurance holding company through an application process subject to regulation by the division of insurance.

46.1(3) An application process for the approval of an initial sale of the shares of the capital stock of a reorganized domestic insurance company or an intermediate holding company, subject to the approval of the division of insurance.

INSURANCE DIVISION[191](cont'd)

ITEM 36. Amend rule 191—46.2(521A) as follows:

191—46.2(521A) Definitions. ~~As used in~~ In addition to the definitions in 191—1.1(502,505), the following definitions apply to this chapter:

“Affiliated person” of another person means:

1. Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting securities of such other person,
2. Any person 5 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person,
3. Any person directly or indirectly controlling, controlled by, or under common control with, such other person, or
4. Any officer, director, partner, copartner, or employee of such other person.

~~“Commissioner” means the Iowa commissioner of insurance.~~

~~“Division” means the Iowa insurance division.~~

“Domestic mutual insurance company” means an insurance company organized on a mutual plan and incorporated under the laws of Iowa.

“Interested person” of another person means:

1. Any affiliated person of such company,
2. Any member of the immediate family of any natural person who is an affiliated person of such company,
3. Any person or partner or employee of any person who at any time since the beginning of the last two completed fiscal years of such company has acted as legal counsel for such company, or
4. Any natural person whom the commissioner by order shall have determined to be an interested person by reason of having had, at any time since the beginning of the last two completed fiscal years of such company, a material business or professional relationship with such company or with the principal executive officer of such company.

“Intermediate holding company” means a holding company which is a subsidiary of a mutual insurance holding company or part of a holding company system controlled by a mutual insurance holding company pursuant to the provisions of Iowa Code chapter 521A.

“Limited application” means an application by a domestic mutual insurance company for reorganization to a mutual insurance holding company which will hold, at all times, 100 percent of the stock of its insurance subsidiaries.

“Member of the immediate family” means any parent, spouse of a parent, child, spouse of a child, spouse, brother or sister, and includes step and adoptive relationships.

“Mutual insurance holding company” means a holding company organized on a mutual plan and incorporated under the laws of Iowa, resulting from the reorganization of a domestic mutual insurance company pursuant to the provisions of Iowa Code section 521A.14, with one or more stock insurance holding company subsidiaries or stock insurance company subsidiaries. A mutual insurance holding company shall be a person as defined in Iowa Code section ~~521A.1(7)~~ 521A.1 and shall be subject to the provisions of Iowa Code chapter 521A.

“Plan of reorganization” means a plan to reorganize a domestic mutual insurance company by forming a mutual insurance holding company.

~~“Section 521A.14” means section 44 of House File 247 as enacted by the 1995 session of the 76th General Assembly.~~

“Standard application” means an application by a domestic mutual insurance company for reorganization to a mutual insurance holding company which may sell interests in its subsidiaries to third parties.

“Stock” means any security evidencing an equity interest in the issuing entity.

“Stock offering” means any proposed sale, exchange, transfer or other change of ownership of stock or of securities convertible into or exchangeable or exercisable for stock. For the purposes of these rules, “stock offering” shall not mean (1) an offering of preferred stock which is not convertible or exchangeable

INSURANCE DIVISION[191](cont'd)

into common stock and which has no ordinary voting rights or (2) a transfer of stock between any of the following:

- A mutual insurance holding company,
- An insurance company subsidiary of a mutual insurance holding company,
- An intermediate holding company subsidiary of a mutual insurance holding company, and
- An insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company.

ITEM 37. Amend rule 191—46.3(521A) as follows:

191—46.3(521A) Application—contents—process.

46.3(1) No change.

46.3(2) The application shall be filed in triplicate with the commissioner and shall include the following information:

- a. No change.
- b. A plan of reorganization as set forth in 46.4(521A) 191—46.4(521A).
- c. to j. No change.

46.3(3) No change.

ITEM 38. Amend paragraph **46.4(2)“i”** as follows:

i. Describing the applicant’s plan for a stock offering in accordance with the provisions of rule 46.109(521A) 191—46.10(521A) below.

ITEM 39. Amend rule 191—46.7(521A) as follows:

191—46.7(521A) Reorganization of domestic mutual insurer with mutual insurance holding company. A domestic mutual insurance company may apply to reorganize by merging its policyholders’ membership interests into a mutual insurance holding company by filing with the commissioner a joint application with the mutual insurance holding company complying with the provisions of 46.3(521A) 191—46.3(521A).

ITEM 40. Amend rule 191—46.8(521A) as follows:

191—46.8(521A) Reorganization of foreign mutual insurer with mutual insurance holding company. A foreign mutual insurance company, or a foreign health service corporation, which if a domestic corporation would be organized under Iowa Code chapter 514, may apply to reorganize by merging its policyholders’ membership interests into a mutual insurance holding company by filing with the commissioner a joint application with the mutual insurance holding company complying with the provisions of 46.3(521A) 191—46.3(521A).

ITEM 41. Amend **191—Chapter 46**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section 521A.14 as amended by 1996 Iowa Acts, chapter 1014.

ITEM 42. Amend subparagraph **48.3(2)“a”(1)** as follows:

(1) Has provided proof of one of the following:

~~1. The applicant is a licensed insurance producer with a life line of authority for at least the 12 months preceding the date of application; or~~

~~2. 1.~~ The applicant has taken and passed an examination on viatical and life settlement contracts required by another state insurance department and currently holds a license as a viatical settlement broker from that state; or

~~3. 2.~~ The applicant has passed the viatical settlement examination required by the commissioner. Examination results are valid for 90 days after the date of the examination. If the applicant fails to apply for licensure within 90 days after passing the examination, the examination results shall be void;

INSURANCE DIVISION[191](cont'd)

ITEM 43. Amend paragraph **48.3(4)“a”** as follows:

a. A viatical settlement provider or viatical settlement broker who meets the requirements of this rule, unless otherwise denied licensure pursuant to ~~rule 48.10(508E)~~ rule 191—48.10(508E), shall be issued a license.

ITEM 44. Amend paragraph **48.3(6)“d”** as follows:

d. If a viatical settlement provider or viatical settlement broker fails to comply with the renewal procedures within the time prescribed, or a viatical settlement provider fails either to meet the requirements of Iowa Code section 508E.3 and subrule 48.3(1) or to submit the reports required in rule ~~48.7(508E)~~ 191—48.7(508E), such nonpayment or failure shall result in lapse of the license.

ITEM 45. Amend subrule 48.10(1) as follows:

48.10(1) Unfair trade practices. Pursuant to Iowa Code section 508E.17, a violation of rule ~~48.4(508E)~~ 191—48.4(508E), ~~48.5(508E)~~ 191—48.5(508E), ~~48.6(508E)~~ 191—48.6(508E), ~~48.7(508E)~~ 191—48.7(508E) or ~~48.9(508E)~~ 191—48.9(508E) shall be considered an unfair trade practice under Iowa Code chapter 507B, and a violator shall be subject to the penalties contained in that chapter.

ITEM 46. Amend rule ~~191—99.1(505,508)~~ as follows:

191—99.1(505,508) Authority. This chapter is promulgated by the commissioner of insurance pursuant to Iowa Code ~~section sections 505.8 and 2010 Iowa Acts, Senate File 2201, section 9 508.33A.~~

ITEM 47. Amend rule **191—99.3(505,508)**, definitions of “Letters of credit,” “LPS” and “Organizing life insurance company,” as follows:

“*Letters of credit*” means clean, unconditional, irrevocable letters of credit issued or confirmed by a qualified United States financial institution as defined in Iowa Code section ~~521B.4, subsection 2-521B.103(2)“c.”~~

“*LPS*” means a limited purpose subsidiary life insurance company organized pursuant to ~~2010 Iowa Acts, Senate File 2201, section 9,~~ Iowa Code section 508.33A that is wholly owned by the organizing life insurance company and that is issued a certificate of authority by the commissioner pursuant to this chapter.

“*Organizing life insurance company*” means the domestic life insurance company that organizes the LPS pursuant to ~~2010 Iowa Acts, Senate File 2201, section 9~~ Iowa Code section 508.33A.

ITEM 48. Amend **191—Chapter 99**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section sections 505.8 and 2010 Iowa Acts, Senate File 2201, section 9 508.33A.~~

ITEM 49. Amend rule **191—100.2(523A)**, definition of “Commissioner’s Web site,” as follows:

“*Commissioner’s Web site website*” means the ~~Web site website~~ of the Iowa insurance division, www.iid.iowa.gov.

ITEM 50. Amend rule ~~191—100.3(523A)~~ as follows:

191—100.3(523A) Contact and correspondence.

100.3(1) Contact information. All mailed complaints, inquiries and correspondence shall be sent to Securities and Regulated Industries Bureau, Iowa Insurance Division, 1963 Bell Avenue, Suite 100, Des Moines, Iowa 50315. Telephone inquiries may be made at (877)955-1212. Electronic submissions and correspondence may be made through the commissioner’s ~~Web site website~~.

100.3(2) No change.

100.3(3) Forms and instructions. Copies of all required forms and instructions are available on the commissioner’s ~~Web site website~~.

ITEM 51. Amend rule ~~191—100.11(523A)~~, introductory paragraph, as follows:

191—100.11(523A) Application for license. To obtain a preneed seller license as required by Iowa Code section 523A.501 or a sales agent license as required by Iowa Code section 523A.502, a person

INSURANCE DIVISION[191](cont'd)

must submit an application to the commissioner pursuant to this rule. A person shall not accept any payment or funding, including the assignment of ownership of or proceeds from insurance, related to the purchase of merchandise or services in Iowa, if the sale of the merchandise or services is subject to Iowa Code chapter 523A, unless the person holds an active license. Application forms and instructions may be obtained from the commissioner's ~~Web site~~ website.

ITEM 52. Amend subparagraph **100.14(4)“d”(1)** as follows:

(1) The following are examples of acceptable course topics:

1. to 5. No change.

6. Medicaid and the Iowa estate recovery law, Iowa Code section ~~249A.5(2) and 441—subrule 76.12(7)~~ 249.53.

7. and 8. No change.

ITEM 53. Amend subrule 100.15(1) as follows:

100.15(1) Procedure for renewal. The commissioner shall renew preneed sellers' licenses, pursuant to Iowa Code section 523A.501(7), or sales agents' licenses, pursuant to Iowa Code section 523A.502(5), for both active and restricted status licenses, if the preneed sellers or sales agents provide to the commissioner all of the following, which must be received by the commissioner on or before April 15 of each year:

a. *Annual report.* A preneed seller or sales agent shall file a complete and accurate annual report in the form and manner directed by the commissioner. A preneed seller's report must include information on affiliated sales agents as provided in the instructions. The form and instructions may be obtained through the commissioner's ~~Web site~~ website.

b. *Verification of completion of continuing education.* A sales agent shall have completed the continuing education required by rule 191—100.14(523A) and shall attest to completion of the continuing education and compliance with all instructions on the commissioner's ~~Web site~~ website.

c. *Renewal fee.* A preneed seller or sales agent shall submit a renewal fee as set out in rule 191—100.18(523A). Failure to include the proper amount shall be cause for the renewal to be rejected.

ITEM 54. Amend subrule 100.17(2) as follows:

100.17(2) Application for reinstatement. Any preneed seller or sales agent whose license is restricted may request reinstatement by filing an application for reinstatement with the commissioner. Instructions can be found on the commissioner's ~~Web site~~ website. If the licensed person meets all conditions of licensure, the commissioner shall reinstate the license.

ITEM 55. Rescind and reserve paragraph **100.19(1)“b.”**

ITEM 56. Amend rule 191—100.20(523A), introductory paragraph, as follows:

191—100.20(523A) Trust interest or income. A preneed seller may withdraw interest or income, as defined by Iowa Code section ~~523A.102(16)~~ 523A.102, from trusts holding funds which are established pursuant to Iowa Code section 523A.201(8) and which are related to purchase agreements executed on or after July 1, 1987, in accordance with this rule.

ITEM 57. Amend subrule 100.23(1) as follows:

100.23(1) In lieu of the trust requirements of Iowa Code section 523A.405 ~~as amended by 2015 Iowa Acts, House File 632, section 36~~, a preneed seller may file with the commissioner a surety bond. The surety bond shall be in the form as directed by the commissioner and as available on the commissioner's ~~Web site~~ website.

ITEM 58. Amend subparagraph **100.33(1)“c”(4)** as follows:

(4) Preneed sellers shall use the following numbering system, unless they receive written permission from the commissioner to use a different system.

1. to 4. No change.

An example of the numbering system is provided on the commissioner's ~~Web site~~ website.

INSURANCE DIVISION[191](cont'd)

ITEM 59. Amend subrule 100.33(2) as follows:

100.33(2) *By sales agents.* A sales agent shall maintain a sales log for a minimum of five years after the sale. The sales log shall include all of the information required for the sales agent's annual report. Instructions and an example are available on the commissioner's ~~Web site~~ website.

ITEM 60. Amend subparagraph **100.34(1)“c”(4)** as follows:

(4) If the funding change is from a trust account to an insurance account:

1. Confirm that the policy shall have an increasing benefit, as specified in Iowa Code section ~~523A.401(6)~~ 523A.401(5).

2. Record the amendment on the preneed seller's annual report as both a withdrawal from trust and an addition of insurance. Instructions are available on the commissioner's ~~Web site~~ website.

3. Comply with record-keeping and reporting requirements for the sale of new insurance in Iowa Code sections 523A.401 and 523A.402.

ITEM 61. Amend subparagraph **100.34(1)“c”(5)** as follows:

(5) If the change in funding is from one insurance company to another:

1. and 2. No change.

3. Record the amendment on the preneed seller's annual report as a change in funding from one insurance company to another. Instructions are available on the commissioner's ~~Web site~~ website.

ITEM 62. Amend paragraph **100.41(3)“a,”** introductory paragraph, as follows:

a. Unless the lack of a mutual agreement has been appropriately documented in the preneed seller's preneed purchaser file records, a preneed seller has agreed “to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof” and received an “initial payment,” for purposes of establishing a “purchase agreement,” as defined by Iowa Code section ~~523A.102(23)~~ 523A.102, if:

ITEM 63. Rescind and reserve paragraph **100.41(4)“a.”**

[Filed 2/19/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5514C

INSURANCE DIVISION[191]

Adopted and Filed

Rule making related to credit for reinsurance

The Insurance Division hereby amends Chapter 5, “Regulation of Insurers—General Provisions,” and Chapter 112, “Term and Universal Life Insurance Reserve Financing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 505.8 and 2020 Iowa Acts, Senate File 2131, section 22.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 521B.

Purpose and Summary

This rule making amends the rules to reflect changes made pursuant to the provisions of 2020 Iowa Acts, Senate File 2131, eliminating the reinsurance collateral requirements for assuming insurers (reciprocal reinsurers) that have their head office or are domiciled in a reciprocal jurisdiction and that

INSURANCE DIVISION[191](cont'd)

meet certain solvency requirements. Reciprocal jurisdictions include non-United States jurisdictions subject to an in-force covered agreement, United States jurisdictions accredited under the National Association of Insurance Commissioners Financial Standards and Accreditation Program, or qualified jurisdictions determined by the Iowa Insurance Division. The solvency requirements for reciprocal reinsurers include (1) maintaining a minimum capital and surplus; (2) maintaining a minimum solvency or capital ratio; (3) providing notice to the Division in the event of noncompliance with the minimum capital and surplus and minimum solvency requirements, serious noncompliance with applicable law, consent to service of process, consent to payment of final judgments, and nonparticipation in solvent schemes; (4) providing certain documentation specified by the Commissioner; and (5) maintaining a practice of prompt payment of claims.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5388C**. A public hearing was held on February 4, 2021, at 10 a.m. via conference call. One person attended the hearing and voiced support for the rule making. Two written comments were received. One comment voiced support for the rule making. The other comment letter was unrelated to the rule making. Since publication of the Notice, nonsubstantive changes have been made to be consistent with capitalization, punctuation, and rule terminology.

Adoption of Rule Making

This rule making was adopted by Douglas M. Ommen, Iowa Insurance Commissioner, on February 18, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

This rule does not provide for waivers.

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 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **5.33(7)“a,”** introductory paragraph, as follows:

a. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this subrule. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with subrules ~~5.33(10), 5.33(11), and 5.33(12)~~, and 5.33(13) of this rule and ~~2013 Iowa Acts, Senate File 182, sections 2(5) and 3~~ Iowa Code

INSURANCE DIVISION[191](cont'd)

sections 521B.102(5) and 521B.103. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

ITEM 2. Amend subparagraph 5.33(7)“b”(4) as follows:

(4) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

1. No change.

Ratings	Best	S&P	Moody's	Fitch
Secure – 1	A++	AAA	Aaa	AAA
Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure – 3	A	A+, A	A1, A2	A+, A
Secure – 4	A-	A-	A3	A-
Secure – 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable – 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

2. to 7. No change.

8. For certified reinsurers not domiciled in the United States, audited financial statements (~~audited United States GAAP basis if available; audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a United States GAAP basis; or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to United States GAAP certified by an officer of the company~~), regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the commissioner will consider audited financial statements for the last ~~three~~ two years filed with the certified reinsurer's non-United States jurisdiction supervisor.

9. to 11. No change.

ITEM 3. Amend subparagraph 5.33(7)“b”(7) as follows:

(7) The certified reinsurer must agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which is not otherwise public information subject to disclosure shall be exempted from disclosure under Iowa Code chapter 22 and shall be withheld from public disclosure. The applicable information filing requirements are as follows:

1. to 3. No change.

4. Annually, the most recent audited financial statements (~~audited United States GAAP basis if available; audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a United States GAAP basis; or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to United States GAAP certified by an officer of the company~~), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last ~~three~~ two years filed with the certified reinsurer's supervisor.

5. to 7. No change.

ITEM 4. Amend subparagraph 5.33(7)“b”(8) as follows:

(8) Change in rating or revocation of certification.

1. to 3. No change.

4. Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with subrule ~~5.33(9)~~ 5.33(10) of this rule in order

INSURANCE DIVISION[191](cont'd)

for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with subrule 5.33(6) of this rule, the commissioner may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

ITEM 5. Amend paragraph **5.33(7)“e”** as follows:

e. Mandatory funding clause. In addition to the clauses required under subrule ~~5.33(13)~~ 5.33(14) of this rule, reinsurance contracts entered into or renewed under this subrule shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this subrule for reinsurance ceded to the certified reinsurer.

ITEM 6. Renumber subrules **5.33(8)** to **5.33(15)** as **5.33(9)** to **5.33(16)**.

ITEM 7. Adopt the following **new** subrule 5.33(8):

5.33(8) Credit for reinsurance—reciprocal jurisdictions.

a. Pursuant to Iowa Code section 521B.102(5A), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction, and which meets the other requirements of this subrule.

b. A “reciprocal jurisdiction” is a jurisdiction, as designated by the commissioner pursuant to paragraph 5.33(8)“*d*,” that meets one of the following:

(1) A non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For the purposes of this subrule, a “covered agreement” is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. Sections 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance.

(2) A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program.

(3) A qualified jurisdiction, as determined by the commissioner pursuant to Iowa Code section 521B.102(5)“*c*” and paragraph 5.33(7)“*c*,” which is not otherwise described in subparagraph 5.33(8)“*b*”(1) or (2) and which the commissioner determines meets all of the following additional requirements:

1. Provides that an insurer which has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a U.S.-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction.

2. Does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-U.S. jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance.

3. Recognizes the U.S. state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the commissioner or the commissioner of the domiciliary state and will not be subject to group

INSURANCE DIVISION[191](cont'd)

supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction.

4. Provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.

c. Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this state to an assuming insurer meeting each of the conditions set forth below.

(1) The assuming insurer must be licensed to transact reinsurance by, and have its head office or be domiciled in, a reciprocal jurisdiction.

(2) The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, and confirmed as set forth in subparagraph 5.33(8)“c”(7) according to the methodology of its domiciliary jurisdiction, in the following amounts:

1. No less than \$250 million; or

2. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, meets both of the following:

- Minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least \$250 million.

- A central fund containing a balance of the equivalent of at least \$250 million.

(3) The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, one of the following:

1. If the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction as defined in subparagraph 5.33(8)“b”(1), the ratio specified in the applicable covered agreement.

2. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in subparagraph 5.33(8)“b”(2), a risk-based capital (RBC) ratio of 300 percent of the authorized control level, calculated in accordance with the formula developed by the NAIC.

3. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in subparagraph 5.33(8)“b”(3), after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency.

(4) The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Certificate of Reinsurer Domiciled in Reciprocal Jurisdiction Form RJ-1, of its agreement to all of the following:

1. The assuming insurer must agree to provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in subparagraph 5.33(8)“c”(2) or (3), or if any regulatory action is taken against it for serious noncompliance with applicable law.

2. The assuming insurer must consent in writing to the jurisdiction of the courts in this state and to the appointment of the commissioner as agent for service of process.

- The commissioner may also require that such consent be provided and included in each reinsurance agreement under the commissioner’s jurisdiction.

- Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

3. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

4. Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer’s liabilities attributable

INSURANCE DIVISION[191](cont'd)

to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable.

5. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involves this state's ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide 100 percent security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of Iowa Code section 521B.103 and subrules 5.33(11), 5.33(12) and 5.33(13). For purposes of this subrule, the term "solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction.

6. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in subparagraph 5.33(8)"c"(5).

(5) The assuming insurer or its legal successor must provide, if required by the commissioner, on behalf of itself and any legal predecessors, the following documentation to the commissioner:

1. For the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report.

2. For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor.

3. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States.

4. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in subparagraph 5.33(8)"c"(6).

(6) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:

1. More than 15 percent of the reinsurance recoverable from the assuming insurer is overdue and in dispute as reported to the commissioner.

2. More than 15 percent of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer \$100,000, or as otherwise specified in a covered agreement.

3. The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds \$50 million, or as otherwise specified in a covered agreement.

(7) The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with the requirements set forth in subparagraphs 5.33(8)"c"(2) and (3).

(8) Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

d. The commissioner shall timely create and publish a list of reciprocal jurisdictions.

(1) A list of reciprocal jurisdictions is published through the NAIC committee process. The commissioner's list shall include any reciprocal jurisdiction as defined under subparagraphs 5.33(8)"b"(1) and (2), and shall consider any other reciprocal jurisdiction included on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal

INSURANCE DIVISION[191](cont'd)

jurisdictions as provided by applicable law, rule, or in accordance with criteria published through the NAIC committee process.

(2) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a reciprocal jurisdiction, as provided by applicable law, rule, or in accordance with a process published through the NAIC committee process, except that the commissioner shall not remove from the list a reciprocal jurisdiction as defined under subparagraphs 5.33(8)“b”(1) and (2). Upon removal of a reciprocal jurisdiction from this list credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to Iowa Code chapter 521B or rule 191—5.33(510).

e. The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this section.

(1) If an NAIC-accredited jurisdiction has determined that the conditions set forth in paragraph 5.33(8)“c” have been met, the commissioner has the discretion to defer to that jurisdiction’s determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subrule. The commissioner may accept financial documentation filed with another NAIC-accredited jurisdiction or with the NAIC in satisfaction of the requirements of paragraph 5.33(8)“c.”

(2) When requesting that the commissioner defer to another NAIC-accredited jurisdiction’s determination, an assuming insurer must submit a properly executed Form RJ-1 and additional information as the commissioner may require. A state that has received such a request will notify other states through the NAIC committee process and provide relevant information with respect to the determination of eligibility.

f. If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this section, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subrule.

(1) While an assuming insurer’s eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer’s obligations under the contract are secured in accordance with subrule 5.33(10).

(2) If an assuming insurer’s eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer’s obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of subrule 5.33(10).

g. Before denying statement credit or imposing a requirement to post security with respect to paragraph 5.33(8)“f” or adopting any similar requirement that will have substantially the same regulatory impact as security, the commissioner shall:

(1) Communicate with the ceding insurer, the assuming insurer, and the assuming insurer’s supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in paragraph 5.33(8)“c.”

(2) Provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection.

(3) After the expiration of 90 days or less, as set out in subparagraph 5.33(8)“g”(2), if the commissioner determines that no or insufficient action was taken by the assuming insurer, the commissioner may impose any of the requirements as set out in this subrule.

(4) Provide a written explanation to the assuming insurer of any of the requirements set out in this subrule.

h. If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the

INSURANCE DIVISION[191](cont'd)

proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities.

ITEM 8. Amend renumbered paragraph **5.33(10)“b”** as follows:

b. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and those securities qualifying as admitted assets.

ITEM 9. Amend subrule 5.33(11), introductory paragraph, as follows:

5.33(11) *Letters of credit qualified under subrule ~~5.33(9)~~ 5.33(10).*

ITEM 10. Amend renumbered subparagraph **5.33(11)“b”(3)** as follows:

(3) All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the commissioner's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this subrule. If the commissioner approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in subparagraph ~~5.33(10)“b”(4)~~ 5.33(11)“b”(4) must also be presentable, as a matter of legal right, at the trustee's principal office in the United States.

ITEM 11. Amend renumbered subparagraph **5.33(11)“b”(4)** as follows:

(4) The trust agreement shall provide that:

1. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
2. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
3. It is not subject to any conditions or qualifications outside of the trust agreement;
4. It shall not contain references to any other agreements or documents except as provided for under subparagraph ~~5.33(10)“b”(11)~~ 5.33(11)“b”(11).

ITEM 12. Amend renumbered subparagraph **5.33(11)“b”(11)** as follows:

(11) Notwithstanding other provisions of this rule, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this rule, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:

1. and 2. No change.

3. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer, in any qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in subparagraph ~~5.33(10)“d”(1)~~ 5.33(11)“d”(1) as may remain executory after such withdrawal and for any period after the termination date.

ITEM 13. Amend renumbered subparagraph **5.33(11)“b”(12)** as follows:

(12) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by subparagraph ~~5.33(10)“d”(1)~~ 5.33(11)“d”(1) so long as these required conditions are included in the trust agreement.

ITEM 14. Amend renumbered paragraph 5.33(11)“c” as follows:

c. Permitted conditions.

(1) and (2) No change.

(3) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the

INSURANCE DIVISION[191](cont'd)

beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in ~~5.33(10)“d”(1)“2.”~~ 5.33(11)“d”(1)“2.”

(4) and (5) No change.

ITEM 15. Amend renumbered subparagraph 5.33(11)“d”(2) as follows:

(2) The reinsurance agreement may also contain provisions that:

1. Give the assuming insurer the right to seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

- The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or
- After withdrawal and transfer, the market value of the trust account is not less than 102 percent of the required amount.

The ceding insurer shall not unreasonably or arbitrarily withhold its approval.

2. Provide for:

• The return of any amount withdrawn in excess of the actual amounts required to comply with ~~5.33(10)“d”(1)“5,”~~ 5.33(11)“d”(1)“5,” first three bulleted paragraphs, or in the case of ~~5.33(10)“d”(1)“5,”~~ 5.33(11)“d”(1)“5,” fourth bulleted paragraph, any amounts that are subsequently determined not to be due; and

• Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to ~~5.33(10)“d”(1)“5,”~~ 5.33(11)“d”(1)“5,” third bulleted paragraph.

3. Permit the award by any arbitration panel or court of competent jurisdiction of:

- Interest at a rate different from that provided in ~~5.33(10)“d”(2)“2”~~ 5.33(11)“d”(2)“2”;
- Court of arbitration costs;
- Attorney’s fees;
- Any other reasonable expenses.

ITEM 16. Amend renumbered subparagraph **5.33(11)“d”(5)** as follows:

(5) The failure of any trust agreement to specifically identify the beneficiary as defined in paragraph ~~5.33(10)“a”~~ 5.33(11)“a” shall not be construed to affect any actions or rights which the commissioner may take or possess pursuant to the provisions of the laws of this state.

ITEM 17. Amend renumbered subrule 5.33(12) as follows:

5.33(12) *Letters of credit qualified under subrule ~~5.33(9)~~ 5.33(10).*

a. The letter of credit must be clean, irrevocable and unconditional and issued or confirmed by a qualified United States financial institution. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subparagraph ~~5.33(11)“i”(1)~~ 5.33(12)“i”(1). As used in this paragraph, “beneficiary” means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court-appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

b. to j. No change.

ITEM 18. Amend renumbered subparagraph 5.33(12)“i”(1) as follows:

(1) The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions which:

1. and 2. No change.

INSURANCE DIVISION[191](cont'd)

3. All of the provisions required by paragraph ~~5.33(11)“i”~~ 5.33(12)“i” should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

ITEM 19. Amend renumbered subparagraph **5.33(12)“i”(2)** as follows:

(2) Nothing contained in this paragraph shall preclude the ceding insurer and assuming insurer from providing for:

1. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to ~~5.33(11)“i”(1)“2,”~~ 5.33(12)“i”(1)“2,” third bulleted paragraph.

2. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the event ~~5.33(11)“i”(1)“2,”~~ 5.33(12)“i”(1)“2,” fourth bulleted paragraph, is applicable, any amounts that are subsequently determined not to be due.

ITEM 20. Amend renumbered subparagraph **5.33(12)“i”(3)** as follows:

(3) When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of ~~5.33(11)“i”(1)“2,”~~ 5.33(12)“i”(1)“2,” require that the parties enter into a “Trust Agreement” which may be incorporated into the reinsurance agreement or be a separate document.

ITEM 21. Amend renumbered subrule 5.33(14) as follows:

5.33(14) Reinsurance contract. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of ~~subrules~~ subrule 5.33(4), 5.33(5), 5.33(6), 5.33(7), ~~5.33(8)~~ 5.33(9), or ~~5.33(10)~~ 5.33(11) after the adoption of this rule unless the reinsurance agreement:

a. to c. No change.

ITEM 22. Amend paragraph 112.7(1)“e” as follows:

e. Any trust used to satisfy the requirements of rule 191—112.7(521B) shall comply with all of the conditions and qualifications of 191—subrule ~~5.33(10)~~ 5.33(11), except that:

(1) to (3) No change.

(4) The determination of reserve credit under 191—subparagraphs ~~5.33(10)“d”(3)~~ 5.33(11)“d”(3) to ~~5.33(10)“d”(5)~~ 5.33(11)“d”(5) shall be determined according to the valuation rules set forth in subrule 112.6(2), as applicable; and

[Filed 2/19/21, effective 4/14/21]

[Published 3/10/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5489C

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]

Adopted and Filed

Rule making related to five-year review of rules

The Iowa Public Employees’ Retirement System hereby amends Chapter 4, “Employers,” Chapter 5, “Employees,” Chapter 11, “Application for, Modification of, and Termination of Benefits,” Chapter 12, “Calculation of Monthly Retirement Benefits,” Chapter 13, “Disability for Regular and Special Service Members,” Chapter 14, “Death Benefits and Beneficiaries,” Chapter 17, “Public Records and Fair Information Practices,” and Chapter 19, “Declaratory Orders,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 97B.4 and 97B.15.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 97B.

Purpose and Summary

This rule making is intended to conform rules with other rules and statutes or rescind rules that are outdated, redundant or inconsistent, or no longer in effect to meet the requirements of the statutory five-year review of rules for Chapters 16 to 20; to implement contribution rates for employers and regular and special services members beginning July 1, 2021; to clarify and define "citizen coach" for employers; to clarify employers' reporting requirements for terminated employees; to ensure vendors with access to personally identifiable information (PII) sign IPERS' data-sharing agreement; to disallow funeral homes as beneficiaries; to streamline the retirement application process; to remove outdated language to better reflect modern member practice; to provide for overpayments to be collected more quickly and efficiently; to amend language to bring subrules into compliance with the Iowa Code; to update language to reflect current practice regarding open records requests, estimates of search fees, and advance payments when necessary; to provide for usernames to be added as a category of confidential record ensuring they may be withheld from public inspection; to revise language to acknowledge and reflect changes in file storage technology; to strike and replace language to be consistent with actual practice; and to align the "required beginning date" specified under IRS regulations with the provisions of the SECURE Act.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 30, 2020, as **ARC 5359C**. A public hearing was held via Zoom conference call on January 29, 2021. No one attended the public hearing.

One comment was received asking IPERS to further revise subrule 17.3(3) (Item 10) by changing "shall" in the second sentence of the paragraph to the term "may" instead. In response to the public comment, a change was made to Item 10.

Adoption of Rule Making

This rule making was adopted by IPERS on February 3, 2021.

Fiscal Impact

IPERS' enabling legislation requires that employer and employee contribution rates for each member class be updated every fiscal year.

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 IPERS for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

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

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 495—4.2(97B) as follows:

495—4.2(97B) Records to be kept by the employer.

4.2(1) and **4.2(2)** No change.

4.2(3) Reports.

a. No change.

b. Effective July 1, ~~1991~~ 2021, employers ~~must~~ shall report the termination date and date of final paycheck for all terminating employees to IPERS ~~within seven working days following the employee's termination date~~ with the final wage report for such employee. This report shall contain the employee's last-known mailing address and such other information as IPERS might require.

c. No change.

4.2(4) No change.

ITEM 2. Amend rule 495—4.6(97B) as follows:

495—4.6(97B) Contribution rates. The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

4.6(1) Contribution rates for regular class members.

a. No change.

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021
Combined rate	14.88%	14.88%	15.73%	15.73%	15.73%	<u>15.73%</u>
Employer	8.93%	8.93%	9.44%	9.44%	9.44%	<u>9.44%</u>
Employee	5.95%	5.95%	6.29%	6.29%	6.29%	<u>6.29%</u>

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021
Combined rate	19.26%	18.76%	19.52%	19.02%	18.52%	<u>18.02%</u>
Employer	9.63%	9.38%	9.76%	9.51%	9.26%	<u>9.01%</u>
Employee	9.63%	9.38%	9.76%	9.51%	9.26%	<u>9.01%</u>

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021
Combined rate	16.40%	16.40%	17.02%	16.52%	16.02%	15.52%
Employer	9.84%	9.84%	10.21%	9.91%	9.61%	<u>9.31%</u>
Employee	6.56%	6.56%	6.81%	6.61%	6.41%	<u>6.21%</u>

4.6(4) to 4.6(7) No change.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ITEM 3. Adopt the following new subrule 5.2(51):

5.2(51) A citizen coach is an employee (permanent or temporary) who works for a school district in only a coaching capacity. An employer may provide a citizen coach with IPERS coverage immediately. If the employer chooses not to, then the following determination of IPERS coverage is needed:

a. If the citizen coach is expected to fill the position each season and cannot be unseated by another district employee, then the district and citizen coach have established a permanent relationship and IPERS coverage should begin once that citizen coach returns to coach a second season.

b. If there is no expectation of continued employment beyond the first season for the citizen coach, or if the citizen coach can be unseated by another district employee, then a temporary relationship exists and the citizen coach shall only be covered if the citizen coach meets the requirements of subrule 5.2(13).

ITEM 4. Amend subrule 11.1(1) as follows:

11.1(1) *Form used.* It is the responsibility of the member to notify IPERS of the intention to retire. This should be done 60 days before the expected retirement date. The application for monthly retirement benefits is obtainable from IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. The printed application form shall be completed by each member applying for benefits and shall be mailed, sent by fax or brought in person to IPERS. An application that is incomplete or incorrectly completed will be returned to the member. To be considered complete, an application must include the following:

a. to c. No change.

d. Signature of member and spouse, ~~both properly notarized unless witnessed by an authorized employee of the system.~~

e. to g. No change.

A retirement application is deemed to be valid and binding on the date the first payment is paid. Members shall not cancel their applications, change their option choice, or change an IPERS option containing contingent annuitant benefits after that date.

ITEM 5. Amend subrule 11.1(2) as follows:

11.1(2) *Proof required in connection with application.* Proof of date of birth to be submitted with an application for benefits shall be in the form of a birth certificate, a U.S. passport, an infant baptismal certificate, an identification card or driver's license issued by the state of Iowa, a state identification card that is issued in compliance with the REAL ID Act of 2005, or a driver's license that is issued in compliance with the REAL ID Act of 2005. If these records do not exist, the applicant shall submit two other documents or records which will verify the day, month and year of birth. A photographic identification record may be accepted even if now expired unless the passage of time has made it impossible to determine if the photographic identification record is that of the applicant. The following records or documents are among those deemed acceptable to IPERS as proof of date of birth:

a. to h. No change.

i. Adoption papers; or

~~*j.* A family Bible record. A photocopy will be accepted with a notarized certification that the record appears to be genuine; or~~

~~*k. j.* Any other document or record ten or more years old, or certification from the custodian of such records which verifies the day, month, and year of birth.~~

If the member, the member's representative, or the member's beneficiary is unable or unwilling to provide proof of birth, or in the case of death, proof of death, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, Iowa division of records and statistics, IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access.

IPERS is required to begin making payments to a member or beneficiary who has reached the required beginning date specified by Internal Revenue Code Section 401(a)(9). In order to begin making such payments and to protect IPERS' status as a plan qualified under Internal Revenue Code Section 401(a), IPERS may rely on its internal records with regard to date of birth, if the member or

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

beneficiary is unable or unwilling to provide the proofs required by this subrule within 30 days after written notification of IPERS' intent to begin mandatory payments.

ITEM 6. Amend subrule 11.2(4) as follows:

11.2(4) Required beginning date.

a. Notwithstanding the foregoing, IPERS shall commence payment of a member's retirement benefit under Iowa Code sections 97B.49A to 97B.49I (under Option 2) no later than the "required beginning date" specified under Internal Revenue Code Section 401(a)(9), even if the member has not submitted the application for benefits. If the lump sum actuarial equivalent could have been elected by the member, payments shall be made in such a lump sum rather than as a monthly allowance. The "required beginning date" is defined as the later of: (1) April 1 of the year following the year that the member attains the age of 72 (or the age of 70 ½ for that member who attains the age of 70 ½ on or before December 31, 2019), or (2) April 1 of the year following the year that the member actually terminates all employment with employers covered under Iowa Code chapter 97B.

b. to e. No change.

ITEM 7. Amend rule 495—12.7(97B) as follows:

495—12.7(97B) Reemployment of retired members.

12.7(1) No change.

12.7(2) Beginning on or after July 1, 1996, the retirement allowance of a member subject to reduction pursuant to subrule 12.7(1) shall be reduced as follows:

a. and b. No change.

c. The member's overpayment shall be collected as follows:

(1) IPERS will reduce the member's gross monthly benefit by ~~30~~ 50 percent until the overpayment is repaid. If the ~~30~~ 50 percent reduction will not recover the overpayment by the end of the current calendar year, IPERS will calculate the monthly reduction amount so that the overpayment will be recovered within the current calendar year. Other monthly reduction amounts may be made by an agreement in writing between the member and IPERS; or

(2) to (4) No change.

12.7(3) to 12.7(5) No change.

ITEM 8. Amend subrule 13.1(2) as follows:

13.1(2) If a member returns to covered employment after achieving a bona fide retirement, ~~and is no longer eligible for social security or railroad disability benefits,~~ the benefits being provided to the member under Iowa Code section 97B.50(2) "a" or "b" shall be suspended or reduced as follows. If the member has not attained the age of 55 upon reemployment, benefit payments shall be suspended in their entirety until the member subsequently terminates employment, applies for, and is approved to receive benefits under the provisions of Iowa Code chapter 97B. If the member has attained the age of 55 or older upon reemployment, the member shall continue to receive monthly benefits adjusted as follows. Monthly benefits shall be calculated under the same benefit option that was first selected, based on the member's age, years of service, and the applicable reductions for early retirement as of the month that the member returns to covered employment. The suspension or reduction of benefits for returning to covered employment no longer applies as of the calendar year the member reaches normal retirement age, as defined by Iowa Code section 97B.45, or for special service members aged 55, or sheriffs and deputies aged 50 with 22 years of service. The member's benefit shall also be subject to the applicable provisions of Iowa Code section 97B.48A pertaining to reemployed retired members.

ITEM 9. Amend rule 495—14.3(97B) as follows:

495—14.3(97B) Designation of beneficiaries.

14.3(1) Designation of beneficiaries. To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. Members may also designate their beneficiary through the IPERS website. The designation of a beneficiary by a retiring member on the application for monthly benefits revokes all prior designation of beneficiary forms. IPERS

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

may consider as valid a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to IPERS prior to the member's death. If a retired member is reemployed in covered employment, the most recently filed beneficiary form shall govern the payment of all death benefits for all periods of employment. Notwithstanding the foregoing sentence, a reemployed IPERS Option 4 or 6 retired member may name someone other than the member's contingent annuitant as beneficiary, but only for lump sum death benefits accrued during the period of reemployment and only if the contingent annuitant has died or has been divorced from the member before or during the period of reemployment unless a qualified domestic relations order (QDRO) directs otherwise. If a reemployed IPERS Option 4 or 6 retired member dies without filing a new beneficiary form, the death benefits accrued for the period of reemployment shall be paid to the member's contingent annuitant, unless the contingent annuitant has died or been divorced from the member. If the contingent annuitant has been divorced from the member, any portion of the lump sum death benefits awarded in a QDRO shall be paid to the contingent annuitant as alternate payee, and the remainder of the lump sum death benefits shall be paid to the member's estate or, if applicable, to the member's heirs if no estate is probated. A funeral home shall not be designated as a beneficiary.

14.3(2) to 14.3(4) No change.

ITEM 10. Amend rule 495—17.3(17A,22) as follows:

495—17.3(17A,22) Requests for access to records.

17.3(1) and 17.3(2) No change.

17.3(3) Request for access. Requests for access to open records may be made in writing, by telephone, electronically or in person. ~~All requests shall include the name, address, telephone number, and the E-mail address (if available) of the person requesting the information.~~ IPERS may request the name, address, telephone number, and the email address (if available) of the person requesting the information to ensure timely delivery of the documentation, search fee, or both, if applicable. All requests for information regarding member accounts must contain the member's identification number or social security number. Requests shall identify the particular records sought by name or other personal identifier and shall include a description in order to facilitate the location of the record. A person shall not be required to give a reason for requesting an open record. ~~The request shall indicate the maximum search fee the requester is prepared to pay. If the maximum amount is reached before the requested records have been located and copied, the requester shall be notified and asked for further directions. If a search fee is applicable, IPERS will contact the requesting party with an estimate prior to collecting the data.~~

17.3(4) to 17.3(6) No change.

17.3(7) Fees.

a. to d. No change.

e. Advance payments.

~~(1) When the estimated fee chargeable under this subrule exceeds \$25, the requester shall be required to make an advance payment of the estimated fee. Upon completion of the request for records, the actual fee shall be calculated and the difference refunded or collected.~~

(2) When a requester has previously failed to pay a an applicable search fee charged under this subrule, full advance payment of future estimated fees of any amount may be required before processing a new or pending request for access to records from that requester.

ITEM 11. Amend rule 495—17.13(17A,22) as follows:

495—17.13(17A,22) Availability of records.

17.13(1) No change.

17.13(2) Confidential records. The following records under the jurisdiction of the agency may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. to c. No change.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

d. Records which are exempt from disclosure under Iowa Code sections 22.7 and 97B.17, including, but not limited to:

(1) and (2) No change.

(3) Log-on identification passwords, Internet protocol addresses, usernames, private keys, or other records containing information which might lead to disclosure of private keys used in a digital signature or other similar technologies as provided in Iowa Code chapter 554D.

(4) No change.

e. to i. No change.

17.13(3) No change.

ITEM 12. Amend subrules 17.14(1) to 17.14(3) as follows:

17.14(1) *IPERS personnel files and records.* Personnel files of IPERS employees are maintained and kept under the jurisdiction of the agency and contain personal, private, and otherwise confidential records under Iowa Code section 22.7(11). It is unlikely that the personal and private information in these records can be separated from otherwise releasable information without identifying the subject or the employee's family. These records contain names, social security numbers and other identifying numbers, ~~and are collected in the form of paper, microfilm, tape, and computer records.~~ Data processing systems permit the comparison of personally identifiable information in one record system with that in another system.

17.14(2) *Iowa public employees' retirement system.* The retirement system possesses records that concern individual public employees who are covered by IPERS and their families. Records are collected in accordance with Iowa Code chapter 97B and are confidential records in part under Iowa Code sections 22.7 and 97B.17. These records contain names, addresses, social security numbers, and other identifying numbers, ~~and are collected in the form of paper, microfilm, tape, and computer records.~~ Data processing systems permit the comparison of personally identifiable information in one record system with that in another system.

17.14(3) *Vendor contracts.* These are records pertaining to facilities management, training, investment management, and other services. These records are collected in accordance with Iowa Code chapter 97B and are confidential records in part under Iowa Code section 22.7. These records contain names, addresses, social security numbers, and other identifying numbers, ~~and are collected in the form of paper, microfilm, tape, and computer records.~~ Data processing systems permit the comparison of personally identifiable information in one record system with that in another system. Vendors that have access to personally identifiable information shall sign a data-sharing agreement as requested by IPERS.

ITEM 13. Strike "file-stamped copy" wherever it appears in **495—Chapter 19** and insert "date-stamped copy" in lieu thereof.

[Filed 2/16/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5490C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to federal occupational safety and health standards

The Labor Commissioner hereby amends Chapter 10, "General Industry Safety and Health Rules," and Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

Legal Authority for Rule Making

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

LABOR SERVICES DIVISION[875](cont'd)

State or Federal Law Implemented

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

Purpose and Summary

The purposes of this rule making are to adopt by reference changes to the federal occupational safety and health construction standards and to rescind an obsolete rule. The amendments place Iowa in compliance with the requirements to adopt federal occupational safety and health standards by reference.

The U.S. Occupational Safety and Health Administration (OSHA) amended the beryllium construction standard to better align with the language of the general industry beryllium standard and changed numerous definitions. The agency's intention with respect to trace amounts of beryllium was clarified. The exposure limits were not changed, and the agency intends to maintain employee health with reduced costs to employers.

The Federal Railroad Administration revised its rules concerning the use of equipment such as cranes and derricks in the maintenance and construction of railroads. As a result, OSHA amended its standard for cranes and derricks to clarify which standards apply.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 21, 2020, as **ARC 5234C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commissioner on November 30, 2020.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 14, 2021.

The following rule-making actions are adopted:

LABOR SERVICES DIVISION[875](cont'd)

ITEM 1. Rescind and reserve rule **875—10.4(88)**.

ITEM 2. Amend rule **875—26.1(88)** by inserting the following at the end thereof:

85 Fed. Reg. 53997 (August 31, 2020)

85 Fed. Reg. 57122 (September 15, 2020)

[Filed 2/16/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5516C

NATURAL RESOURCES DEPARTMENT[561]

Adopted and Filed

Rule making related to waivers

The Natural Resources Department hereby amends Chapter 10, "Waivers or Variances from Administrative Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 17A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.9A.

Purpose and Summary

Chapter 10 outlines a uniform process for the granting of waivers from rules adopted by the Department. This rule making aligns the chapter with the Iowa Administrative Procedure Act as amended by 2020 Iowa Acts, House File 2389. The legislation amended Iowa Code section 17A.9A to remove the term "variance." The section now refers only to "waivers," rather than to "waivers or variances." House File 2389 was passed as a technical edit to simplify the law's language. Neither the Iowa Code section nor the Department's associated rules contain any substantive distinction between a waiver or a variance. Therefore, the Department is likewise striking "variance" in all instances from Chapter 10.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5380C**. 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 18, 2021.

Fiscal Impact

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

Jobs Impact

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

NATURAL RESOURCES DEPARTMENT[561](cont'd)

Waivers

This rule is subject to the waiver provisions of 561—Chapter 10. 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.

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 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **561—Chapter 10**, title, as follows:

WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

ITEM 2. Amend rule 561—10.1(17A,455A) as follows:

561—10.1(17A,455A) Applicability. This chapter outlines a uniform process for the granting of waivers ~~or variances~~ from rules adopted by the department. As used in this chapter, the term “director” includes the director’s designee. As used in this chapter, “waiver ~~or variance~~” means an action by the department which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

ITEM 3. Amend rule 561—10.2(17A,455A) as follows:

561—10.2(17A,455A) Authority. A waiver ~~or variance~~ from rules adopted by the department may be granted in accordance with this chapter if:

10.2(1) The department has exclusive rule-making authority to promulgate the rule from which waiver ~~or variance~~ is requested or has final decision-making authority over a contested case in which a waiver ~~or variance~~ is requested; and

10.2(2) The waiver ~~or variance~~ is consistent with any applicable statute, constitutional provision, or other provision of law. In addition, this subrule does not authorize the department to waive ~~or vary~~ any requirement created or duty imposed by statute.

ITEM 4. Amend rule 561—10.4(17A,455A) as follows:

561—10.4(17A,455A) Criteria for waiver ~~or variance~~. Upon petition of any person and at the sole discretion of the department, the department may issue a waiver ~~or variance~~ from the requirements of a rule if the director or the department in a contested case proceeding finds, based on clear and convincing evidence, all of the following:

10.4(1) The application of the rule would pose an undue hardship on the person for whom the waiver ~~or variance~~ is requested.

10.4(2) The waiver ~~or variance~~ from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person.

10.4(3) The provisions of a rule subject to a petition for a waiver ~~or variance~~ are not specifically mandated by statute or another provision of law.

10.4(4) Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver ~~or variance~~ is requested.

NATURAL RESOURCES DEPARTMENT[561](cont'd)

ITEM 5. Amend rule 561—10.5(17A,455A) as follows:

561—10.5(17A,455A) Burden of persuasion. The burden of persuasion rests with the person who petitions the department for the waiver ~~or variance~~ of a rule. Each petition for a waiver ~~or variance~~ shall be evaluated by the department based on the unique, individual circumstances set out in the petition. A waiver ~~or variance~~, if granted, shall be drafted by the department so as to provide the narrowest exception possible to the provisions of the rule. The department may place any condition on a waiver ~~or a variance~~ that the department finds desirable to protect the public health, safety, and welfare. A waiver ~~or variance~~ shall not be permanent unless the petitioner can show that a temporary waiver ~~or variance~~ would be impracticable, and, in any event, shall not exceed one year in accordance with the provisions of Iowa Code section 455B.143. If a temporary waiver ~~or variance~~ is granted, there is no automatic right to renewal. At the sole discretion of the department, a waiver ~~or variance~~ may be renewed if the department finds all of the factors set out in rule 561—10.4(17A,455A) remain valid.

ITEM 6. Amend rule 561—10.6(17A,455A) as follows:

561—10.6(17A,455A) Special waiver ~~or variance~~ rules not precluded. This chapter shall not preclude the department from granting waivers in other contexts or on the basis of other standards if a statute or other department rule authorizes the director to do so, and the director deems it appropriate to do so.

ITEM 7. Amend rule 561—10.7(17A,455A) as follows:

561—10.7(17A,455A) Administrative deadlines. When the rule from which a waiver ~~or variance~~ is sought establishes administrative deadlines, the department shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all persons governed by the particular rule.

ITEM 8. Amend rule 561—10.8(17A,455A), introductory paragraph, as follows:

561—10.8(17A,455A) Filing of petition. A petition for a waiver ~~or variance~~ shall be submitted in writing to the department as follows:

ITEM 9. Amend rule 561—10.9(17A,455A) as follows:

561—10.9(17A,455A) Contents of petition. A petition for waiver ~~or variance~~ shall include the following information when applicable and known to the petitioner:

10.9(1) The name, address, and telephone number of the entity or person for whom a waiver ~~or variance~~ is requested, and the case number of any related contested case.

10.9(2) A description and citation of the specific rule from which a waiver ~~or variance~~ is requested.

10.9(3) The specific waiver ~~or variance~~ requested, including the precise scope and operative period that the waiver ~~or variance~~ will extend.

10.9(4) The relevant facts that the petitioner believes would justify a waiver ~~or variance~~. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver ~~or variance~~.

10.9(5) and 10.9(6) No change.

10.9(7) The name, address, and telephone number of any public agency or political subdivision of the state or federal government which also regulates the activity in question, or which might be affected by the granting of a waiver ~~or variance~~.

10.9(8) No change.

10.9(9) The name, address, and telephone number of any person with knowledge of relevant facts relating to the proposed waiver ~~or variance~~.

10.9(10) Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver ~~or variance~~.

NATURAL RESOURCES DEPARTMENT[561](cont'd)

ITEM 10. Amend rule 561—10.10(17A,455A) as follows:

561—10.10(17A,455A) Additional information. Prior to issuing a decision granting or denying a waiver ~~or variance~~, the department may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the director may, on the director's own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the director.

ITEM 11. Amend rule 561—10.12(17A,455A) as follows:

561—10.12(17A,455A) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver ~~or variance~~ of a rule filed within a contested case and shall otherwise apply to department proceedings for a waiver ~~or variance~~ only when the department so provides by rule or order or is required to do so by statute.

ITEM 12. Amend rule 561—10.13(17A,455A) as follows:

561—10.13(17A,455A) Ruling. A decision granting or denying a waiver ~~or variance~~ shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the decision pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

ITEM 13. Amend rule 561—10.14(17A,455A) as follows:

561—10.14(17A,455A) Conditions. The department may condition the granting of the waiver ~~or variance~~ on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

ITEM 14. Amend rule 561—10.15(17A,455A) as follows:

561—10.15(17A,455A) Time for ruling. The department shall grant or deny a petition for a waiver ~~or variance~~ as soon as practicable but, in any event, shall do so within 120 days of receipt of the petition, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the department shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

ITEM 15. Amend rule 561—10.18(17A,455A) as follows:

561—10.18(17A,455A) Public availability. Subject to the provisions of Iowa Code section 17A.3(1) "e," the department shall maintain a record of all decisions granting and denying waivers ~~and variances~~ under this chapter. All final rulings in response to requests for waivers ~~or variances~~ shall be indexed and available to members of the public.

ITEM 16. Amend rule 561—10.19(17A,455A) as follows:

561—10.19(17A,455A) Voiding or cancellation. A waiver ~~or variance~~ is void if the material facts upon which the request is based are not true or if material facts have been withheld. The department may at any time cancel a waiver ~~or variance~~ if the department finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver ~~or variance~~ have failed to achieve the objectives of the statute, or the requester has failed to comply with the conditions of the waiver ~~or variance~~.

ITEM 17. Amend rule 561—10.20(17A,455A) as follows:

561—10.20(17A,455A) Violations. Violation of conditions of the waiver ~~or variance~~ approval is the equivalent of violation of the particular rule for which the waiver ~~or variance~~ is granted and is subject to the same remedies or penalties.

NATURAL RESOURCES DEPARTMENT[561](cont'd)

ITEM 18. Amend rule 561—10.21(17A,455A) as follows:

561—10.21(17A,455A) Defense. After the department issues a decision granting a waiver or ~~variance~~, the decision is a defense within its terms and the specific facts indicated therein for the person to whom the decision pertains in any proceeding in which the rule in question is sought to be invoked.

[Filed 2/18/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5517C

NATURAL RESOURCES DEPARTMENT[561]

Adopted and Filed

Rule making related to special nonresident deer and turkey hunting licenses

The Natural Resources Department hereby amends Chapter 12, "Special Nonresident Deer and Turkey Licenses," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 483A.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 483A.24(3)"a" and 483A.24(4)"a."

Purpose and Summary

This rule making aligns Chapter 12 with its recently amended authorizing statute. Chapter 12 sets forth the application, review, and issuance process for special nonresident deer and turkey licenses. These special licenses exist to allow state officials and local development groups to promote Iowa and its natural resources to nonresident guests and dignitaries. Iowa Code sections 483A.24(3)"a" and 483A.24(4)"a" were amended by 2020 Iowa Acts, House File 2627 (signed by Governor Reynolds on June 25, 2020), to remove references to a legislative committee as the final body with primary license issuance authority. This rule making strikes references to the legislative committee from the chapter to reflect this change and inserts the Director or the Director's designee into that role.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5379C**. 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 18, 2021.

Fiscal Impact

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

NATURAL RESOURCES DEPARTMENT[561](cont'd)

Jobs Impact

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

Waivers

This rule is subject to the waiver provisions of 561—Chapter 10. 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.

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 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule **561—12.2(483A)**, definition of “Internal committee,” as follows:

“*Internal committee*” means the committee that ranks certain requests for special licenses for consideration by the ~~legislative committee~~ director or the director’s designee and consists of the coordinator, the administrator of the conservation and recreation division, the chief of the wildlife bureau, and the chief of the law enforcement bureau.

ITEM 2. Rescind the definition of “Legislative committee” in rule **561—12.2(483A)**.

ITEM 3. Amend rule 561—12.4(483A) as follows:

561—12.4(483A) Coordinator duties. The coordinator of the program shall:

12.4(1) Assist the internal ~~and legislative committees~~ committee in the evaluation and selection of hunters who may receive special licenses.

12.4(2) and **12.4(3)** No change.

12.4(4) Summarize each request received and distribute the summaries to the internal committee and ~~legislative committee~~ the director or the director’s designee.

~~**12.4(5)** Provide additional information regarding requesters as needed to aid the legislative committee in the selection process.~~

~~**12.4(6)**~~ **12.4(5)** Establish the date on which applications for special licenses for disabled veterans and disabled active military personnel are due, establish the dates on which the ~~legislative committee~~ director or the director’s designee will select the conservation organizations and hunters who will receive special licenses, and inform the conservation organizations, the approved organizations and the hunters of their selection.

ITEM 4. Amend subrule 12.5(2) as follows:

12.5(2) Review. The internal committee shall review the summaries prepared by the coordinator, rank the hunters according to criteria in rule 561—12.7(483A), and forward the rankings to the ~~legislative committee~~ director or the director’s designee for consideration and final selection. The internal committee shall exercise its discretion and, in addition to the criteria in rule 561—12.7(483A), shall also consider the following:

NATURAL RESOURCES DEPARTMENT[561](cont'd)

a. Requests that demonstrate little or no promotion of the state of Iowa or its natural resources shall not be included in the rankings forwarded to or considered by the ~~legislative committee~~ director or the director's designee.

b. and *c.* No change.

ITEM 5. Amend rule 561—12.6(483A), introductory paragraph, as follows:

561—12.6(483A) Consideration of requests for promotional special licenses. The internal committee will recommend to the ~~legislative committee~~ director or the director's designee which conservation organizations are best qualified to promote the state and its natural resources. In making recommendations to the ~~legislative committee~~ director or the director's designee, the internal committee will base its recommendations on the expected ability of hunters to promote the state and its natural resources and, if applicable, based on the degree of success special license holders have had in previous years or seasons in promoting the state and its natural resources. By way of illustration, the committee may consider requests from the following:

ITEM 6. Amend subrules 12.6(2) and 12.6(3) as follows:

12.6(2) A conservation organization that will use the special nonresident deer license as a ~~fund-raiser~~ fundraiser for that organization. A conservation organization shall be limited to one special nonresident deer license per year, whether the organization is a local or state chapter or division of a national or international conservation organization. The organization shall return to the department the greater amount of either one-half of the proceeds from its sale of the special nonresident deer license or the fee for a nonresident deer license as set forth in Iowa Code section 483A.1. The department's proceeds shall cover the cost of the special nonresident deer license. A license made available to a conservation organization in accordance with this subrule may be valid for up to two years after selection of the organization by the ~~legislative committee~~ director or the director's designee. The sponsoring conservation organization shall notify the coordinator by July 1 or immediately following the sale of the special nonresident deer license of which year and for what season the special nonresident deer license will be used. The conservation organization shall specifically explain how and during what period the organization will market the special nonresident deer license for auction or some other legal ~~fund-raiser~~ fundraiser.

12.6(3) A hunter nominated by the governor, or a member of the Iowa legislature ~~or a member of the legislative committee~~.

ITEM 7. Amend subrule 12.7(1), introductory paragraph, as follows:

12.7(1) The following criteria shall be used by the internal committee to rank individual hunters as identified in subrules 12.6(1), 12.6(4) and 12.6(5). The rankings shall be determined as the average of the following rating points and will be provided to the ~~legislative committee~~ director or the director's designee as an aid in determining the selection of hunters.

ITEM 8. Amend subrules 12.7(2) and 12.7(3) as follows:

12.7(2) A conservation organization's request shall be forwarded to the ~~legislative committee~~ director or the director's designee if the conservation organization meets the definition in rule 561—12.2(483A) and approval shall be based on evaluation of the organization's prior performance, if any, in selling the special nonresident deer license.

12.7(3) Hunters as identified in subrule 12.6(3) shall not be ranked by the internal committee, and their requests will be forwarded to the ~~legislative committee~~ director or the director's designee ~~for its determination~~ consideration.

ITEM 9. Amend rule 561—12.10(483A) as follows:

561—12.10(483A) Reporting by recipients of promotional special licenses. Within eight months after a hunter's participation in a hunt with a license issued pursuant to this chapter, the sponsor or hunter shall provide to the coordinator information about the hunt to demonstrate how the hunt will provide or has provided promotion of the state and its natural resources. This information may be in the form

NATURAL RESOURCES DEPARTMENT[561](cont'd)

of testimonials of the participants, a completed DVD available for retail sale, a DVD copy of the actual television broadcast, an article in a periodical, or other verifiable means that demonstrate the promotional benefits. The ~~legislative committee~~ director or the director's designee may consider compliance with this reporting requirement in evaluating future requests.

[Filed 2/18/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5518C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to statement furnishment deadlines

The Revenue Department hereby amends Chapter 46, "Withholding," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 421.14, 422.16 and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.16.

Purpose and Summary

In the July 31, 2019, Iowa Administrative Bulletin, the Department proposed a rule making (i.e., Notice of Intended Action, **ARC 4561C**) to amend Chapter 46. That rule making is related to new electronic filing requirements for W-2 forms and 1099 forms and was subsequently adopted and filed and published in the Iowa Administrative Bulletin (**ARC 4678C**, IAB 9/25/19, effective 10/30/19). One purpose of that rule making was to move the annual deadline for filing Verified Summary of Payments Reports, W-2 forms, and 1099 forms with the Department from January 31 to February 15. It was not the intent of the Department to attempt to disregard the annual January 31 deadline by which a withholding agent or employer must furnish statements to employees, nonresidents, or other persons, as described in Iowa Code section 422.16(7)"a." However, that rule making's amendment to subparagraph 46.3(3)"d"(3) may have given that appearance.

This rule making clarifies that the annual deadline under Iowa Code section 422.16(7)"a" remains January 31. This rule making also corrects a typographical error in subparagraph 46.3(3)"d"(2) and updates subparagraph 46.3(3)"e"(1) by removing a reference to a rescinded subrule, replacing references to certain credits, and making a stylistic change. Lastly, this rule making clarifies that the withholding agents' electronic filing requirement applies for all 1099 forms and W-2 forms for persons from whom Iowa income tax was withheld.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 23, 2020, as **ARC 5183C**. The Department received one comment on the proposed rule making. The commenter expressed concern with altering the date for filing withholding forms and reports to the Department. After reviewing the comment, the Department determined that no further changes to the proposed rule making were necessary. No changes from the Notice have been made.

REVENUE DEPARTMENT[701](cont'd)

Adoption of Rule Making

This rule making was adopted by the Department on February 19, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making action is adopted:

Amend paragraphs 46.3(3)“d” to “g” as follows:

d. Reports for employee.

(1) General rule. Every employer required to deduct and withhold tax from compensation of an employee must furnish to each employee with respect to the compensation paid in Iowa by such employer during the calendar year, a statement containing the following information: the name, address, and federal employer identification number of the employer; the name, address, and social security number of the employee; the total amount of compensation paid in Iowa; and the total amount deducted and withheld as tax under subrule 46.1(1).

(2) Form of statement. The information required to be furnished to an employee under the preceding paragraph shall be furnished on an Internal Revenue Service combined Wage and Tax Statement, Form W-2, hereinafter referred to as “combined W-2.” Any reproduction, modification or substitution for a combined W-2 by the employer must be approved by the department. Employers should keep copies of the combined W-2 for four years from the end of the year for which the combined W-2 applies.

(3) Time for furnishing statement. Each statement required by paragraph “d” to be furnished for a calendar year and each corrected statement required for any prior year shall be furnished to the employee on or before ~~February 15~~ January 31 of the year succeeding such calendar year, or if an employee's employment is terminated before the close of a calendar year without expectation that it will resume during the same calendar year, within 30 days from the day on which the last payment of compensation is made, if requested by such employee, but not later than January 31 of the following year. See paragraph 46.3(3)“e” for provisions relating to the filing of copies of the combined W-2 with the department of revenue, and see subparagraph 46.3(3)“f”(1) for the provision relating to filing W-2 forms with the department for tax year 2019 and all subsequent tax years.

(4) Corrections. An employer must furnish a corrected combined W-2 to an employee if, after the original statement has been furnished, an error is discovered in either the amount of compensation

REVENUE DEPARTMENT[701](cont'd)

shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. Such statement shall be marked "corrected by the employer." See paragraph 46.3(3) "e" for provisions relating to the filing of a corrected combined W-2 with the department.

(5) Undelivered combined W-2. Any employee's copy of the combined W-2 which, after reasonable effort, cannot be delivered to an employee shall be transmitted to the department with a letter of explanation.

(6) Lost or destroyed. If the combined W-2 is lost or destroyed, the employer shall furnish a substitute copy to the employee. The copy shall be clearly marked "Reissued by Employer."

e. Annual verified summary of payments reports.

(1) Every withholding agent required to withhold Iowa income tax under subrules 46.1(1), 46.1(2), 46.1(3), and 46.4(1) is to furnish to the department of revenue on or before February 15 following the tax year an annual Verified Summary of Payments Report (VSP).

The withholding agent completing the VSP form must enter the total Iowa income tax withheld that is shown on the W-2 forms and 1099 forms for the year, the new jobs credits, supplemental new jobs credits, accelerated career education credits and ~~housing assistance~~ targeted jobs credits claimed on withholding returns for the year. In addition, the withholding agent must enter on the VSP the withholding payments made for the year. If the amount of Iowa income tax withholding remitted to the department of revenue for the year is less than the withholding tax and withholding credits claimed, the withholding agent is to report the additional withholding tax due on an amended return and submit payment to the department.

If the Iowa income tax shown as withheld on the ~~W-2s~~ W-2 forms and ~~1099s~~ 1099 forms issued for the tax year is less than the amount of withholding tax remitted to the department of revenue by the withholding agent, the agent should file an amended return with the department reflecting the excess tax paid.

(2) For ~~Verified Summary of Payments Report~~ VSP forms filed with the department of revenue for the year 2000 through the year 2016, the withholding agents are not to submit W-2 forms and 1099 forms with the reports. However, the withholding agents should supply W-2 forms or 1099 forms as requested by personnel of the department of revenue if the request for the forms is made within three years from the end of the year for which the W-2 forms or 1099 forms apply. Therefore, if a request is made to a withholding agent for a W-2 form or a 1099 form for the year 2013, the request is valid if the request is postmarked, faxed or made on or before December 31, 2016.

(3) Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).

f. W-2 forms.

(1) For tax year 2019 and all subsequent tax years, all withholding agents are required to electronically file W-2 forms for employees from whom Iowa income tax was withheld with the department of revenue on or before February 15 following the tax year.

(2) The department of revenue may, in a case involving a hardship, extend the requirement to electronically file to the 2020 tax year. No extension of time shall be granted unless the withholding agent makes a written request to the department of revenue for such action.

(3) Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).

g. 1099 forms and W-2G forms.

(1) For tax year 2019 and all subsequent tax years, all withholding agents are required to electronically file all 1099 forms and W-2G forms for persons from whom Iowa income tax was withheld on or before February 15 following the tax year.

(2) The department of revenue may, in a case involving a hardship, extend the requirement to electronically file to the 2020 tax year. No extension of time shall be granted unless the withholding agent makes a written request to the department of revenue for such action.

REVENUE DEPARTMENT[701](cont'd)

(3) Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).

[Filed 2/19/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5491C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to logo signing

The Department of Transportation hereby amends Chapter 118, "Logo Signing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 306C.11 and 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 306C.11.

Purpose and Summary

This rule making adds a definition of "ramp" to aid in the comprehensibility of the three types of signs (mainline, ramp and trailblazing) involved in the logo program, corrects the name of the Traffic and Safety Bureau, lowers the qualifying standards for restaurants, and expands the attraction category to allow event stadiums to qualify for logo signing. The following paragraphs further explain the amendments to Chapter 118.

These amendments reduce the required minimum hours of operation for food service businesses to qualify for logo signing from 48 hours to 40 hours per week. While most food service businesses exceed the current required minimum hours of operation, some smaller businesses in rural areas may benefit from having the minimum qualifying threshold reduced. Motorists are generally accustomed to checking mobile devices for restaurant information before traveling too far off the main highway to a restaurant that is unfamiliar to them.

Additionally, these amendments reduce the minimum number of meals required per day from three to two for food service businesses to qualify for logo signing. Although the primary purpose of the signing program is to provide helpful and reliable motorist service information, most travelers recognize that certain types of restaurants (pizzerias, steakhouses and pubs) may not be open for breakfast, while others (coffee houses and bakeries) may not be open for evening meal service. Furthermore, the use of mobile devices and vehicle-equipped intelligent systems has increased, allowing for instant access to current information about businesses. Aside from these factors, the existing service panels already display a mix of business signs for two- and three-meals-per-day providers due to the availability of the current exceptions within paragraph 118.4(4)"b" and subparagraphs 118.4(11)"a"(4) and 118.4(11)"d"(1) for the two-meal-per-day providers. These amendments eliminate these exceptions because they will be no longer necessary.

Finally, these amendments expand the provision for racetracks within the "attractions" category to include stadiums, coliseums and arenas, provided the seating capacity is at least 5,000. There are times when effective signing options for major event venues are needed, and these facilities often generate significant traffic volumes during events.

TRANSPORTATION DEPARTMENT[761](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 16, 2020, as **ARC 5314C**. 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 9, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of “Ramp” in rule **761—118.2(306C)**:
 “Ramp” means the exit lane which carries decelerating traffic away from the mainline of an interstate or a freeway-primary highway.

ITEM 2. Amend subrule 118.4(4) as follows:

118.4(4) Food.

a. Qualifications. To qualify for placement of a business sign on a food specific service sign, the business must:

- (1) No change.
- (2) Operate a minimum of ~~eight~~ 40 hours per ~~day~~ week, six days per week, and serve ~~three~~ at least two of the following meals per day: breakfast, lunch, ~~and~~ or dinner.

1. to 3. No change.

(3) to (5) No change.

~~*b.—Exceptions.* A business that serves only two meals per day may be granted an exception, in accordance with subrule 118.4(11), from the requirement to serve three meals per day.~~

e. b. Seasonal operations. Food service may be operated seasonally. See subrule 118.5(7) for the fee options for seasonal operations.

ITEM 3. Amend subparagraph **118.4(7)“a”(5)** as follows:

- (5) Maintain normal business hours at least five days per week, totaling at least 40 hours per week. ~~Racetracks~~ Facilities listed in subparagraph 118.4(7)“c”(12) are excepted from this requirement.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 4. Amend subparagraph **118.4(7)“c”(12)** as follows:

(12) ~~Racetrack for horses, dogs, or motorized vehicles~~ Stadium, coliseum, arena or racetrack with a seating capacity of at least 5,000.

ITEM 5. Rescind subparagraph **118.4(11)“a”(4)**.

ITEM 6. Amend paragraph **118.4(11)“d”** as follows:

d. After the five-year period has expired and at the end of the fiscal year, the department may remove the business sign from the specific service sign if:

(1) An exception was granted for maximum distance from the exit, ~~number of meals served~~ or a card-operated fueling station; an application has been received from a qualified business providing the same type of motorist service as the business granted the exception; and space is not available on that specific service sign.

(2) No change.

ITEM 7. Amend paragraph **118.5(1)“a”** as follows:

a. A business requesting placement of a business sign upon a mainline specific service sign shall submit a completed application form, provided by the department, along with the application fee, to the Advertising Management Section, ~~Office of Traffic and Safety Bureau~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

[Filed 2/11/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5492C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to lighting of primary-secondary intersections

The Department of Transportation hereby amends Chapter 136, “Lighting,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 306.4(1), 318.1, 318.2, 318.4, 318.5, 318.8, 318.9 and 318.12.

Purpose and Summary

These amendments to Chapter 136 remove one of the criteria for determining the candidates for lighting, which has not been used to justify the lighting of any primary-secondary intersection for many years. The method using roadway and traffic factors is eliminated because the Department is unable to find the background on this method, and the method is not included in any of the current lighting reference materials.

Other amendments update the Iowa Code sections cited within three implementation sentences to be consistent with the current Iowa Code, update the name of Form 810025, and add the Department's website so that the form can be easily accessed. Also, this rule making states that the departmental specifications and standard road plans are available on the Department's website.

Finally, these amendments correct the name of the Traffic and Safety Bureau.

TRANSPORTATION DEPARTMENT[761](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 30, 2020, as **ARC 5341C**. No public comments were received. One change from the Notice has been made to correct the Department's website.

Adoption of Rule Making

This rule making was adopted by the Department on February 9, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 14, 2021.

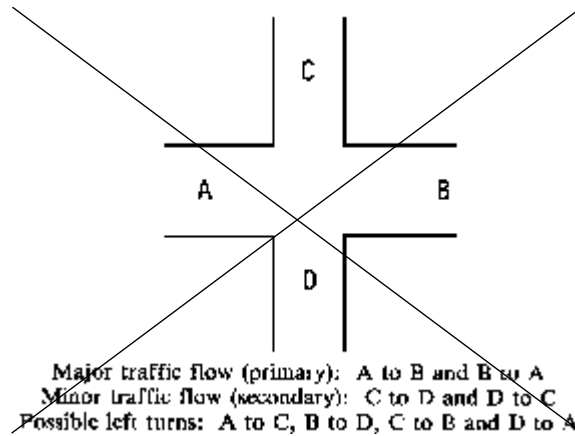
The following rule-making actions are adopted:

ITEM 1. Amend rule 761—136.1(319) as follows:

761—136.1(319 306,318) Lighting of primary-secondary intersections. The purpose of this rule is to establish the qualification criteria for, application procedure the procedures to request, and the financial responsibilities for the placement of roadway luminaires within the limits of the primary road right-of-way at a rural intersection of a primary road and a paved secondary road.

136.1(1) Lighting criteria. A primary-secondary intersection is a candidate for lighting if one of the following is met:

TRANSPORTATION DEPARTMENT[761](cont'd)



a. to d. No change.

e. After making the following calculations, the total in subparagraph (3) below exceeds 3000 points.

(1) Determine the “Roadway/Traffic Factors” for traffic at A and for traffic at B, using the following formula and “Standard Sight Distances for Speed”:

$$\text{Roadway/Traffic Factor} = \frac{\text{Standard Passing Sight Distance for Speed}}{\text{Actual Sight Distance}} \times \frac{\text{Actual Approaching Traffic Volume}}{1000}$$

Standard Passing Sight Distances For Posted Speeds

Speed	Distance
55 mph	2000 ft.
50 mph	1800 ft.
45 mph	1700 ft.
40 mph	1500 ft.

(2) Compare the two answers; the larger number is the “Greater Roadway/Traffic Factor.”

(3) Calculate points based on the following formula, using current average daily traffic (ADT):

Greater Roadway/Traffic Factor × Traffic Volume from C to D = _____

Greater Roadway/Traffic Factor × Traffic Volume from D to C = _____

Greater Roadway/Traffic Factor × Traffic Volume from C to B × (1.5) = _____

Greater Roadway/Traffic Factor × Traffic Volume from D to A × (1.5) = _____

Roadway/Traffic Factor for A × Traffic Volume from B to D × (1.5) = _____

Roadway/Traffic Factor for B × Traffic Volume from A to C × (1.5) = _____

TOTAL = _____

136.1(2) No change.

136.1(3) Procedures.

a. No change.

b. The district engineer shall forward the request to the department’s office of traffic and safety bureau for review.

c. and d. No change.

This rule is intended to implement Iowa Code sections ~~319.1, 319.12~~ 306.4(1), 318.1, 318.2, 318.4, 318.5, 318.8, 318.9 and 319.14 318.12.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 2. Amend rule 761—136.2(319) as follows:

761—136.2(319 306,318) Destination lighting. The purpose of this rule is to establish the application procedure and financial responsibilities for the placement of a roadway luminaire within the limits of primary road right-of-way at a rural intersection of a primary road and a minor road.

136.2(1) and 136.2(2) No change.

136.2(3) Procedures.

a. Application shall be made to the appropriate district engineer on Form 810025, “Application and Agreement for Use of Highway Right-of-Way for Utilities Accommodation.” Form 810025 is available on the department’s website at www.iowadot.gov. The application shall indicate the type of luminaire and intensity of illumination proposed. A sketch shall accompany the application showing the location of the proposed luminaire and pole and the mounting height of the luminaire.

b. and c. No change.

This rule is intended to implement Iowa Code sections ~~319.1, 319.12~~ 306.4(1), 318.1, 318.2, 318.4, 318.5, 318.8, 318.9 and ~~319.14~~ 318.12.

ITEM 3. Amend rule 761—136.6(306) as follows:

761—136.6(306,318) Warrants and design requirements for lighting.

136.6(1) No change.

136.6(2) Design requirements. The design of lighting installations shall comply with departmental specifications and standard road plans for highway lighting as they exist at the time of installation of the lighting. The departmental specifications and standard road plans can be found through the department’s electronic reference library on the department’s website.

This rule is intended to implement Iowa Code ~~subsections~~ sections 306.4(1), 318.1, 318.2, 318.4, 318.8 and ~~669.14(8)~~ 318.9.

[Filed 2/11/21, effective 4/14/21]

[Published 3/10/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5493C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to the definition of “vertical infrastructure”

The Department of Transportation hereby amends Chapter 180, “Public Improvement Quotation Process for Governmental Entities for Vertical Infrastructure,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 314.1A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 26.2.

Purpose and Summary

This rule making updates Chapter 180 to comply with 2020 Iowa Acts, House File 2412, which made changes to the definition of “public improvement” within Iowa Code section 26.2 to amend the exclusions included within the definition. This rule making modifies the definition of “vertical infrastructure” to be

TRANSPORTATION DEPARTMENT[761](cont'd)

consistent with House File 2412 and all of the other exclusions included within the definition of “public improvement.”

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5375C**. 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 17, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—180.2(314) as follows:

761—180.2(314) Contact information. Questions regarding this chapter may be directed to the Office of Support Services Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1299.

ITEM 2. Amend rule **761—180.3(26,314)**, definition of “Vertical infrastructure,” as follows:

“*Vertical infrastructure*” means buildings, all appurtenant structures, utilities, incidental street improvements including sidewalks, site development features, recreational trails, and parking facilities. Vertical infrastructure does not include any work constructed in conjunction with ~~or ancillary to highway, street, bridge or culvert projects, including but not limited to utilities and sidewalks~~ those matters excluded from the definition of “public improvement” in Iowa Code section 26.2(3) “b”(1) to (6).

[Filed 2/17/21, effective 4/14/21]

[Published 3/10/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5494C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rule making related to the International Registration Plan for fleet vehicles**

The Department of Transportation hereby amends Chapter 500, “Interstate Registration and Operation of Vehicles,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 326.15, 326.19A and 326.33.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 326.

Purpose and Summary

This rule making aligns with existing legal authority and Department practice and relates to the administration of the International Registration Plan (IRP) for fleet vehicles operated within the states of the United States and the provinces of Canada. Chapter 500 and Iowa Code chapter 326 outline the specific requirements and procedures for registration under the IRP process. A description of the specific amendments is provided below:

Terminology updates. Several updates are made to terminology used throughout the chapter and within the definitions rule. The term “apportioned registration” will replace the term “prorate registration” throughout the chapter as that is the current terminology used in Iowa Code chapter 326 and the IRP. Rules that accommodate a set month renewal deadline are revised to incorporate implementation of a staggered registration process in which fleet registration renewals are staggered throughout the year rather than all expiring at the same time. Several current definitions are merely duplicative of the definitions already included in Iowa Code chapter 326; therefore, those definitions are removed, and definitions for “distance schedule,” “vehicle schedule,” “IRP,” “qualified fleet owner,” “self-certification of IRP credential destruction,” and “temporary evidence of apportioned registration” are added or amended.

IRP renewals. Several rules related to the IRP registration renewal process are updated to provide flexibility in the renewal process, including accommodating electronic notification and simplified submission methods for required documentation, as well as clarifying the process for adding or deleting a vehicle from the fleet, both at the time of registration renewal and during nonrenewal periods.

Fees and refunds. The rules addressing fees and refunds are updated to align with the Iowa Code, the IRP requirements and current Department practice. Specifically, the late filing penalty fee rule specifies the approved payment methods and deadlines for payment as well as the process for sending a delinquency notice for invoices that are 30 days overdue as required by Iowa Code section 326.10A. The rule addressing the mailing fee for a replacement cab card or plate is revised to align with current Department practice that a mailing fee applies when the Department issues a replacement cab card or plate. A motor carrier does have the option to print its own replacement cab card, in which case the fee would not apply. The rules governing IRP refunds are amended to clarify that plates and cab cards must be returned to the Department if the carrier is seeking a refund of IRP registration. These rules only apply to a refund of Iowa’s portion of the IRP fees, as the Department has the authority under the IRP only to refund Iowa fees.

IRP credentials. IRP credentials include vehicle plates, cab cards and validation stickers that are evidence of a vehicle’s compliance with IRP requirements. Several updates are made to the rules addressing IRP credentials, including striking outdated language referring to a nonexpiring plate and providing flexibility by not requiring the IRP credentials to be turned in if a vehicle is being deleted

TRANSPORTATION DEPARTMENT[761](cont'd)

at the time of renewal. This is because deletion at the time of renewal will not affect the fees the Department collects, and the Department has the authority to assess fees if it is discovered a vehicle was operating under deleted credentials. The current rule relating to a carrier's self-certification of destruction of IRP credentials remains unchanged but is renumbered.

IRP records. The rules related to record retention are updated to comply with the IRP, including requiring record retention for the current registration year and the three preceding registration years; requiring a motor carrier to make records available for audit upon request; setting standards for records maintained by the motor carrier to allow the Department to verify IRP requirements; replacing outdated terminology referring to source records with current terminology referring to summaries, which are documents required to be maintained under the IRP to verify distances traveled; and removing a subrule relating to reaudit and assessment as that subrule was inconsistent with IRP requirements. The proposed amendments also align with the current Department process of obtaining trip permits through the Department's website, by mail or in person, and they remove an outdated provision indicating that a truck permit could be obtained at a truck stop as that is no longer an option. Finally, the rule promoting electronic maintenance of required IRP forms and records is amended to clarify that the federal heavy use tax form is maintained in accordance with Federal Highway Administration and Internal Revenue Service requirements and to remove the requirement to collect and submit Federal Highway Administration Form MCS-150. Because Form MCS-150 is already required to be filed with the federal government, the Department no longer needs to collect the form or forward it to the federal government.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 30, 2020, as **ARC 5340C**. 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 9, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making actions are adopted:

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 1. Amend rule 761—500.1(326) as follows:

761—500.1(326) Definitions. The definitions in Iowa Code ~~section~~ sections 326.2 and 326.3 apply to this chapter. In addition:

~~“Cab card” means a registration receipt that describes the vehicle and reflects the weight in each jurisdiction in which a vehicle is registered for operation.~~

~~“Credential” means a plate, validation sticker, cab card or temporary authority.~~

~~“International Registration Plan (IRP)” means a vehicle prorate registration reciprocity agreement among jurisdictions.~~

~~“Power unit” for registration purposes means a bus, truck, truck tractor, road tractor or tractor.~~

~~“Distance schedule” means the department form used to report fleet distance.~~

~~“IRP” means the International Registration Plan as defined in Iowa Code section 326.2.~~

~~“Qualified fleet owner registrant” means a motor carrier who has received written approval by the department to self-certify IRP credential destruction.~~

~~1. The motor carrier must meet the following requirements to receive department approval:~~

~~● A minimum of five years’ experience with IRP registration in any jurisdiction;~~

~~● A satisfactory IRP payment history. A satisfactory payment history includes, but is not limited to, no suspension of IRP registration in the last five years due to late payment or returned check because of insufficient funds; and~~

~~● A satisfactory rating from the U.S. Department of Transportation in the previous five years.~~

~~2. A motor carrier subject to a federal out-of-service order in the current year or any of the four prior years shall not be eligible to self-certify IRP credential destruction.~~

~~“Registrant” means a person, firm or corporation in whose name or names a vehicle is properly registered.~~

~~“Registration year” means the period January 1 through December 31 for vehicles registered under the International Registration Plan.~~

~~“Self-certification of IRP credential destruction” means a signed statement that is completed by a qualified fleet owner registrant certifying all the date the IRP credentials have been destroyed.~~

~~“Temporary authority evidence of apportioned registration” means a document issued by the department that allows describes the vehicle to be operated until a plate and cab card are issued. “Temporary authority” describes the vehicle and lists the weight for each jurisdiction in which the vehicle is registered for operation and lists the weight for each jurisdiction in which the vehicle is registered for operation and allows the vehicle to be operated.~~

~~“Vehicle schedule” means the department form used to report vehicle registration information.~~

~~This rule is intended to implement Iowa Code sections 326.2, 326.3, 326.15 and 326.33 and 326.15 as amended by 2004 Iowa Acts, chapter 1013, section 32.~~

ITEM 2. Amend rule 761—500.2(17A,326) as follows:

761—500.2(17A,326) General information.

500.2(1) Information and location. Applications, forms and information on interstate registration and operation of vehicles are available on the department’s website at www.iowadot.gov, by mail from the Office of Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3268; ~~or~~ by facsimile at (515)237-3225; or by email at omcs@iowadot.us.

500.2(2) Method of operation. The operations of the department’s motor vehicle division relating to reciprocity and ~~prorate~~ apportioned registration shall be conducted in accordance with the International Registration Plan IRP and the Code of Iowa Code chapters 321 and 326.

500.2(3) Organizational data. The ~~office of~~ vehicle and motor carrier services bureau of the motor vehicle division is authorized pursuant to Iowa Code chapter 326 to:

~~a. Enter into reciprocity agreements with other jurisdictions. These agreements exempt nonresidents from the registration and registration fee requirements of Iowa Code chapter 321.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

~~b. a.~~ Enter into reciprocity ~~prorate~~ apportioned registration agreements with other jurisdictions. The department ~~joined the International Registration Plan (IRP) is a member of the IRP. Such plan~~ The IRP and any revisions thereto are hereby incorporated into this chapter. A copy of the agreement may be obtained by contacting the ~~office of vehicle and motor carrier services bureau~~ or at www.irponline.org. Under this agreement, the ~~office of vehicle and motor carrier services bureau~~ shall do all of the following:

(1) Compute and collect ~~registration~~ apportionable fees due this state under ~~prorate~~ apportioned registration agreements; ~~and~~.

(2) Issue registration plates, validation stickers, cab cards, temporary ~~authority~~ evidence of apportioned registration, and trip permits to qualified registrants.

(3) Enter into reciprocity agreements with other jurisdictions. These agreements exempt nonresidents from the registration and registration fee requirements of Iowa Code chapter 321.

This rule is intended to implement Iowa Code sections 17A.3, 326.5 and 326.6.

ITEM 3. Amend rule 761—500.4(326) as follows:

~~761—500.4(326) Renewal for IRP registration. Renewal forms for the coming year are prepared automatically and distributed in November to all registrants who maintained an active IRP fleet with Iowa during that year. If the registrant does not receive a renewal application by December 1, the registrant is responsible for informing the office of motor carrier services and for making the necessary arrangements for renewal of the registration. Renewal applications should be submitted to the office of motor carrier services no later than January 1 to ensure adequate time for processing. A renewal is considered timely filed when it is received by the office of motor carrier services or postmarked on or before January 31 reminder notices are sent electronically or by mail at least 60 days prior to the registration expiration date to all registrants who maintained an active IRP fleet with Iowa during that year. A registrant may request a renewal reminder notice to be sent by mail. The renewal is made available online at least 60 days prior to the registration expiration date and can be accessed on the department's website.~~

500.4(1) The renewal must include:

a. A completed and signed ~~mileage~~ distance schedule and vehicle schedule(s). ~~The schedules can be filed and signed either electronically or on paper.~~

b. ~~An updated Federal Highway Administration motor carrier identification information report (MCS-150).~~

e. b. Necessary title ~~Title~~ documentation, if necessary.

d. ~~A schedule of heavy highway vehicles (Form 2290).~~

c. One of the following:

(1) ~~Receipted federal heavy vehicle use tax (Form 2290 Schedule 1) for vehicles with a taxable gross weight of 55,000 pounds or more.~~

(2) ~~A copy of Form 2290 Schedule 1 and sufficient documentation of payment of the tax due at the time Form 2290 was filed. The documentation can include, but is not limited to, a photocopy of both sides of a canceled check, a bank statement indicating the amount of tax paid and electronic acknowledgment indicating a payment of tax, and an Internal Revenue Service printout of the taxpayer's account showing the amount of tax paid.~~

500.4(2) Additional renewal procedures.

a. ~~Units being removed from the fleet shall be deleted on the renewal vehicle schedule and the plates, cab cards and stickers must be returned. In lieu of returning the plates, cab cards and stickers, a qualified fleet owner may submit a self-certification of IRP credential destruction to the office of motor carrier services on or before December 31. Registration renewal fees for deleted units shall be assessed unless the self-certification of IRP credential destruction or the plates, cab cards and stickers are received by the office of motor carrier services or postmarked on or before December 31. Vehicles may be deleted from the fleet at the time of renewal. Operating a vehicle with credentials marked as deleted shall result in the registrant being responsible for any fees assessed including any applicable penalty. Operating a vehicle with credentials that were self-certified as destroyed shall result in suspension of the self-certification privilege.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

b. Units being stored shall be marked “stored” on the renewal vehicle schedule and the plates, cab cards and validation stickers must be returned in accordance with rule 761—500.5(321).

c. Vehicles may be added at the time of renewal. Upon payment of required fees, an applicant must apply for a temporary evidence of apportioned registration to be issued to operate a vehicle in accordance with the IRP. The department may extend the temporary evidence of apportioned registration if there are extenuating circumstances beyond the applicant’s control.

d. When the registrant is seeking a refund in accordance with Iowa Code section 326.15 for vehicles deleted at the time of renewal, the annual and permanent registration plates and validation stickers must be returned to the vehicle and motor carrier services bureau.

This rule is intended to implement Iowa Code sections 326.6, 326.11, 326.12, 326.14 and 326.15 as amended by 2004 Iowa Acts, chapter 1013, section 32.

ITEM 4. Amend rule 761—500.5(321) as follows:

761—500.5(321) Deadline for placing a vehicle in storage. The registrant of a currently registered vehicle may at any time request that a vehicle be put into storage. The registrant must complete a vehicle schedule and return it with the plate, cab card and validation sticker to the office of vehicle and motor carrier services bureau. The vehicle schedule, plate, cab card and sticker must be received or postmarked on or before ~~January 31~~ the registration expiration date to stop the registration fee from being assessed for the renewal year. The office of vehicle and motor carrier services bureau shall destroy the plate and return the cab card to the registrant with the word “stored” stamped on it. Placing the vehicle in storage stops penalties on registration fees. When the vehicle is taken out of storage, the vehicle shall be assessed for the current annual registration fee.

This rule is intended to implement Iowa Code sections 321.126 and 321.134.

ITEM 5. Amend rule 761—500.6(321,326) as follows:

~~**761—500.6(321,326) Penalty for late filing of renewal Payment, delinquency and suspension.** Renewals postmarked or received in the office of motor carrier services after January 31 are filed late and a 5 percent penalty shall be assessed. An additional 5 percent penalty shall be assessed on the first of each month thereafter until the renewal is filed. The penalty is calculated based on the following:~~

~~**500.6(1)** If the renewal is filed on or before May 19, the penalty shall be calculated on all trailer fees for the current year, on the first half of the Iowa power unit registration fees (both permanent and nonpermanent plated vehicles), and all registration fees due the other jurisdictions. Payment shall be made payable to the Iowa Department of Transportation by cash, check, credit card, or any other means offered by the department. Payment shall be due 30 calendar days from the invoice date. However, renewal invoices shall be due 30 calendar days from the invoice date or by the last day of the registration expiration month, whichever is later.~~

~~**500.6(2)** If the renewal is filed on or after May 20, the penalty shall be calculated on all registration fees due all jurisdictions for the current year only. Invoices not paid by the due date shall be assessed a late payment penalty as provided in Iowa Code sections 326.14 and 326.16. The same penalty amount will be assessed the first of each month thereafter until the total invoice and all penalties are paid in full.~~

~~**500.6(3)** A delinquency notice shall be sent on invoices 30 calendar days overdue. The department shall send a delinquency notice stating the IRP registration shall be suspended unless payment is received within 30 calendar days from the date of the delinquency notice. If payment is not received in a timely manner, a notice of suspension shall be sent to the registrant. When a registrant is under suspension, all of the registrant’s Iowa-based IRP vehicles shall be suspended.~~

This rule is intended to implement Iowa Code sections ~~321.134 and~~ 326.10A, 326.14 and 326.16.

ITEM 6. Amend rule 761—500.7(326) as follows:

~~**761—500.7(326) IRP payment methods Self-certification of IRP registration plate and validation sticker destruction.** A registrant with a good Iowa payment history may pay by cash, check, wire~~

TRANSPORTATION DEPARTMENT[761](cont'd)

~~transfer or any other means offered by the department. Payment should be made payable to the Iowa Department of Transportation. All other registrants must submit fees by guaranteed funds. Examples of guaranteed funds are: money order, cashier's check, certified check or cash.~~

500.7(1) In order to request a refund for unused registration fees, unless the registrant qualifies to self-certify destruction under this rule, plates and validation stickers must be returned to the department when a vehicle is deleted from the fleet. A registrant must meet all of the following requirements to qualify for department approval to self-certify destruction of IRP credentials:

a. A minimum of five years' experience with IRP registration.

b. A satisfactory IRP payment history. A satisfactory payment history includes, but is not limited to, no suspension of IRP registration in the last five years due to late payment or returned check because of insufficient funds.

c. A satisfactory rating from the U.S. Department of Transportation in the previous five years.

500.7(2) A motor carrier subject to a federal out-of-service order in the current year or any of the four prior years shall not be eligible to self-certify IRP credential destruction.

This rule is intended to implement Iowa Code section ~~326.10A~~ 326.15.

ITEM 7. Amend rule 761—500.8(326) as follows:

761—500.8(326) IRP plate credentials. Upon payment of appropriate fees and submission of all required documentation, the office of vehicle and motor carrier services bureau shall issue one IRP nonexpiring plate for each power unit to be mounted on the front of the power unit, and one nonexpiring trailer plate to be mounted on the rear of the trailer, and one cab card for each power unit. The cab card may be in either a physical or electronic format.

This rule is intended to implement Iowa Code sections section 326.14 and 326.17.

ITEM 8. Amend rule 761—500.9(326) as follows:

761—500.9(326) Fleet Nonrenewal vehicle additions and temporary authority. A registrant may submit add a vehicle schedule to change the fleet operations at any time after the commencement of the registration year. A Upon payment of required fees, temporary authority evidence of apportioned registration may be issued to operate a the vehicle(s) for the period of time required to process the vehicle schedule. The temporary authority evidence of apportioned registration shall not exceed 60 45 days. However, at the discretion of the permitting authority, the 60-day department may extend the temporary authority may be extended evidence of apportioned registration for up to a total of 60 days if there are extenuating circumstances. Once temporary authority evidence of apportioned registration is generated issued and used, fees shall be due and the invoice may only be canceled if an error was made by the department or there were extenuating circumstances for which nonuse can be proven.

This rule is intended to implement Iowa Code section 326.11 as amended by 2005 Iowa Acts, House File 216, section 41.

ITEM 9. Amend rule 761—500.10(326) as follows:

761—500.10(326) Fleet Nonrenewal vehicle deletions. A registrant may remove delete vehicles from the fleet at any time after the commencement of the registration year or from the second half invoice. Vehicles shall be deleted on the vehicle schedule, and the The plates, cab cards and validation stickers must be returned to the office of vehicle and motor carrier services bureau at the time of deletion. In lieu of returning the plates, cab cards and validation stickers, a qualified fleet owner registrant under rule 761—500.7(326) may submit a self-certification of IRP credential destruction on or before the vehicle(s) deletion date to the office of vehicle and motor carrier services bureau. Second half fees for deleted vehicles shall be assessed unless the self-certification of IRP credential destruction or the plates, cab cards and stickers are received by the office of motor carrier services or postmarked on or before June 30. Operating a vehicle with credentials that were self-certified as destroyed shall result in suspension of

TRANSPORTATION DEPARTMENT[761](cont'd)

the self-certification privilege, and the registrant shall be responsible for any additional fees that would have been due beyond the stated destruction date.

This rule is intended to implement Iowa Code sections 326.12 and 326.15 as amended by 2004 Iowa Acts, chapter 1013, section 32.

ITEM 10. Amend rule 761—500.11(326) as follows:

761—500.11(326) Voluntary cancellation of registration. A registrant may cancel an application for IRP registration (~~the IRP vehicle schedule~~) if the registrant notifies the ~~office of vehicle and motor carrier services bureau~~ within 15 days of the invoice date. The notice shall state the reason for cancellation, the licensing status and ownership and be signed by the registrant or its representative. If notice is not received within 15 days or, if a temporary ~~permit~~ evidence of apportioned registration was issued in accordance with 761—500.9(326), all registration fees must be paid in full.

This rule is intended to implement Iowa Code sections 326.6 and 326.11.

ITEM 11. Amend rule 761—500.12(326) as follows:

761—500.12(326) Policy on registration credit. If a vehicle is deleted from the IRP fleet and replaced with another vehicle, registration credit may be applied to IRP fees due on the replacement vehicle. The vehicle schedule identifying the added and deleted vehicles must be submitted to the ~~office of vehicle and motor carrier services bureau~~. The deletion must take place on or before the effective date of the replacement unit's vehicle's registration fees are required to be effective by law. ~~In accordance with Iowa Code section 326.12, credit shall not be allowed if the registrant is filing late. Allowance for credit of deleted vehicles shall be subject to the conditions set forth in Iowa Code section 326.12.~~

This rule is intended to implement Iowa Code section 326.12.

ITEM 12. Amend rule 761—500.13(326) as follows:

761—500.13(326) Penalty for late filing of vehicle schedule.

500.13(1) ~~A~~ As provided in Iowa Code sections 326.14 and 326.16, a late filing penalty of 5 percent shall be assessed to the vehicle if a vehicle schedule is not filed within 30 days of:

- a. The purchase of a new or used vehicle;
- b. ~~A vehicle's being brought into Iowa from out of state to be registered; or~~ The date a vehicle is brought across state borders into Iowa to be registered; or
- c. ~~A vehicle's vehicle~~ being first operated with the exemption allowed under Iowa Code section 321.20A.

500.13(2) ~~The 5 percent penalty is calculated based on the following:~~

- a. ~~If the vehicle schedule is filed on or before May 19, the penalty shall be calculated on all trailer fees for the current year, on the first half of the Iowa power unit registration fees (both permanent and nonpermanent plated vehicles) and all registration fees due the other jurisdictions.~~
- b. ~~If the vehicle schedule is filed on or after May 20, the penalty shall be calculated on all registration fees due all jurisdictions for the current year only.~~

500.13(3) ~~500.13(2)~~ An additional ~~5 percent~~ penalty shall be assessed on the first of each month thereafter until the vehicle schedule is filed.

500.13(4) ~~500.13(3)~~ The department may collect intrastate registration fees and penalties when registering a delinquent vehicle to bring the vehicle fees current before allowing the IRP registration of the vehicle.

This rule is intended to implement Iowa Code ~~section 326.11~~ sections 321.20A, 326.11, 326.14 and 326.16.

ITEM 13. Rescind and reserve rules **761—500.14(326)** to **761—500.16(321,326)**.

ITEM 14. Amend rule 761—500.17(326) as follows:

761—500.17(326) Duplicate credentials. The fees for duplicate credentials are as follows:

500.17(1) A replacement cab card is \$3.

TRANSPORTATION DEPARTMENT[761](cont'd)

500.17(2) A replacement plate including the cab card is \$8. ~~If applicable, a mailing fee will also be assessed.~~

500.17(3) ~~A validation sticker replacement including the cab card is \$3.50~~ If applicable, a mailing fee will also be assessed based on the number of plates or cab cards being issued.

This rule is intended to implement Iowa Code section 326.22.

ITEM 15. Rescind and reserve rules **761—500.18(326)** and **761—500.19(326)**.

ITEM 16. Amend rule 761—500.20(326) as follows:

761—500.20(326) Making claim for refund. A refund of Iowa fees previously paid for the registration of vehicles may be made in accordance with Iowa Code sections 321.126, 321.127, ~~321.173~~ 321.129 and 326.15 ~~as amended by 2004 Iowa Acts, chapter 1013, section 32.~~ A claim for refund ~~on an IRP registered vehicle(s) form~~ may be obtained from the ~~office of vehicle and motor carrier services bureau.~~ In lieu of returning the plates, a qualified ~~fleet owner~~ registrant may submit a self-certification of IRP credential destruction on or before the vehicle's deletion date to the ~~office of vehicle and motor carrier services bureau.~~

This rule is intended to implement Iowa Code sections 321.126, 321.127, 321.129 and 326.15 ~~as amended by 2004 Iowa Acts, chapter 1013, section 32.~~

ITEM 17. Rescind and reserve rule **761—500.21(326)**.

ITEM 18. Amend rule 761—500.22(326) as follows:

761—500.22(326) Registration of vehicles with non-Iowa titles. Registrants applying for registration for non-Iowa titled vehicles shall submit to the ~~office of vehicle and motor carrier services bureau~~ with the application or payment as specified in rule 761—500.7(326) either a ~~photocopy~~ copy of the non-Iowa title or a copy of the title application if the title has not been issued. If a jurisdiction does not issue titles, a ~~photocopy~~ copy of the bill of sale or a copy of the Canadian registration shall accompany the application or payment.

This rule is intended to implement Iowa Code section ~~326.45~~ 326.11.

ITEM 19. Amend rule 761—500.23(326) as follows:

761—500.23(326) Record retention.

500.23(1) Record retention requirement and penalty. Iowa IRP registrants shall preserve the records upon which their registration is based as required by the IRP ~~and Iowa Code section 326.19~~ for the current registration year and the three preceding registration years. On request, the registrant shall make such records available for audit. The department may assess a penalty upon registrants who have failed to maintain proper records.

500.23(2) Mileage Adequacy of records. ~~Mileage~~ The records shall be preserved for the current registration year and the three preceding registration years. ~~Mileage summaries must be supported by individual vehicle mileage records to provide an auditable system.~~ maintained by a registrant shall be adequate to enable the department to verify the distances reported in the registrant's application for apportioned registration and to evaluate the accuracy of the registrant's distance accounting system. The records may be produced through any means and retained in any format or medium available to the registrant and accessible by the department.

a. The following records produced by a means other than a vehicle-tracking system shall be considered adequate:

- (1) The beginning and ending dates of the trip to which the records pertain.
- (2) The origin and destination of the trip.
- (3) The route of travel.
- (4) The beginning and ending reading from the odometer, hubodometer, engine control module (ECM), or any similar device for the trip.
- (5) The total distance of the trip.
- (6) The distance traveled in each jurisdiction.

TRANSPORTATION DEPARTMENT[761](cont'd)

(7) The vehicle identification number or vehicle unit number.

b. The following records produced wholly or partly by a vehicle-tracking system, including a system based on a global positioning system (GPS) shall be considered adequate under this subrule:

(1) The original GPS or other location data for the vehicle to which the records pertain.

(2) The date and time of each GPS reading or other system reading.

(3) The location of each GPS reading or other system reading.

(4) The beginning and ending reading from the odometer, hubodometer, engine control module (ECM), or any similar device for the period to which the records pertain.

(5) The calculated distance between each GPS reading or other system reading.

(6) The route of the vehicle's travel.

(7) The total distance traveled by the vehicle.

(8) The distance traveled in each jurisdiction.

(9) The vehicle identification number or vehicle unit number.

500.23(3) *Source documents Summaries.* ~~Individual vehicle mileage records as specified in the IRP audit guidelines shall be acceptable to verify fleet mileage. The individual vehicle mileage record must include all of the following summaries shall be maintained:~~

~~a. Date of trip (starting and ending dates); A summary of the fleet's operations of each month, which includes both the full distance traveled by each apportioned vehicle in the fleet during the calendar month and the distance traveled in the month by each apportioned vehicle in each jurisdiction.~~

~~b. Trip origin and destination; A summary of the fleet's operations for each calendar quarter, which includes both the full distance traveled by vehicles in the fleet during the calendar quarter and the distance traveled in each jurisdiction by the vehicles in the fleet during the calendar quarter.~~

~~c. Routes of travel;~~

~~d. Total trip miles;~~

~~e. Mileage by jurisdiction; and~~

~~f. Unit number or vehicle identification number.~~

~~Odometer readings may be substituted for routes of travel if the substitution is approved by the department.~~

500.23(4) *Reaudit and assessment.* ~~If an audit determines that a registrant has not maintained adequate mileage records, the following procedures shall apply:~~

~~a. The department shall send an audit report to the registrant, detailing the areas of noncompliance.~~

~~b. After a three-month grace period, the department shall reaudit the registrant's records to monitor improvement. If the registrant's record-keeping system is not in compliance at the time of the reaudit, the department shall assess an audit penalty. The penalty shall equal 20 percent of the registrant's projected full Iowa fees for the registration year audited.~~

~~c. After an initial billing, the registrant shall be subject to periodic reaudits, and penalties may be assessed for up to three full years of subsequent noncompliance, pursuant to the IRP agreement.~~

~~This rule is intended to implement Iowa Code sections 326.19 and section 326.19A.~~

ITEM 20. Amend rule 761—500.24(326) as follows:

761—500.24(326) Trip permits. The registrants may meet the registration requirements of Iowa Code chapter 326 by operating under a trip permit. However, moves that are intrastate or exceed legal dimensions or weight and operate under permit as specified in Iowa Code chapter 321E shall not be allowed. Trip permits may be obtained as follows:

500.24(1) ~~The registrant, permit service or process agent may request trip permits by facsimile, telephone, the Internet or mail~~ Trip permits may be obtained through the department's website, by mail, or in person from the office of vehicle and motor carrier services bureau. Such requests shall include the appropriate permit fee remittance. ~~Registrants purchasing trip permits in advance of use may not return unused permits for a refund.~~

500.24(2) Permits may be purchased directly from truck stops in several locations across the state that have executed a "Trip Permit Agreement." The registrant may obtain a list of participating truck

TRANSPORTATION DEPARTMENT[761](cont'd)

~~stops by contacting the office of motor carrier services~~ Registrants purchasing trip permits in advance of use may not return unused permits for a refund.

This rule is intended to implement Iowa Code sections 326.23 and 326.46.

ITEM 21. Amend rule 761—500.25(326) as follows:

761—500.25(326) Electronic information. To the greatest extent possible, the ~~office of vehicle and~~ motor carrier services bureau shall maintain in electronic form all records required under this chapter. The retention period for electronic records must follow the guidelines of the IRP.

500.25(1) IRP vehicle transaction. The ~~office of vehicle and~~ motor carrier services bureau shall destroy paper copies of IRP vehicle transaction requests 90 days after the IRP invoice is generated.

500.25(2) Heavy highway vehicle schedule Federal heavy use tax (Form 2290 Schedule 1). The ~~office of vehicle and~~ motor carrier services bureau shall ~~destroy paper copies of the heavy highway vehicle schedule once the electronic record is updated~~ maintain Form 2290 Schedule 1 in accordance with 23 CFR Section 669.9.

500.25(3) MCS 150. The ~~office of motor carrier services shall forward the updated Federal Highway Administration's motor carrier identification information (MCS 150) to the Federal Motor Carrier Safety Administration office after the update is marked on the electronic record. The office of motor carrier services shall not retain paper copies of this form.~~

This rule is intended to implement Iowa Code section 326.33.

[Filed 2/11/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5495C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to driver's license issuance and examination

The Department of Transportation hereby amends Chapter 602, "Classes of Driver's Licenses," Chapter 604, "License Examination," Chapter 605, "License Issuance," and Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321.180B, 321.188, 321.189 and 321.196.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.180B, 321.186, 321.188, 321.189, 321.194 and 321.196.

Purpose and Summary

This rule making implements several efficiencies regarding the driver's license issuance and examination process and aligns with existing legal authority and Department practice.

These amendments conform the Department's rules to 2020 Iowa Acts, House File 2360, section 1, which amended Iowa Code section 321.196 to increase the driver's license expiration dates for customers aged 66 and older, thus allowing an eight-year credential to be issued, provided that it does not expire past the customer's 80th birthday. Once a person reaches the age of 78, the person is eligible for a driver's license that is effective for a period of two years. These amendments also align with Iowa Code

TRANSPORTATION DEPARTMENT[761](cont'd)

section 321.186 to provide that a special reexamination may consist of the requirement to provide a medical report or a vision report or screening, in addition to or instead of the other testing and screening requirements.

A new subrule addresses license extensions authorized under Iowa Code section 321.196 to specify that the six-month driver's license extension period applies to a noncommercial driver's license. However, federal regulation 49 CFR Section 383.153 allows for a 60-day extension if the person is a commercial driver's license (CDL) holder. A person whose Iowa driver's license expires is automatically afforded a 60-day grace period under Iowa Code section 321.196, but the Iowa grace period is not always recognized by other states, which can make the driver's license extension an important option for customers, especially for CDL holders traveling across state lines.

These amendments implement an online license upgrade process for persons subject to the graduated driver's license (GDL) requirements under Iowa Code section 321.180B. The GDL program covers drivers younger than 18 years of age and requires them to progress through a series of license class privileges before being issued a full driver's license. Currently, even though progressing to the next license class privilege under the GDL program is an upgrade, and is not a new license issuance or renewal, the upgrade to an intermediate license or full license still requires an in-person visit. However, with this rule change, the upgrade will be able to occur online if the applicant meets the eligibility criteria, including that the applicant was issued an intermediate license or minor's school license in person. To comply with federal REAL ID regulations, if the person upgrades the license under the online process to a full driver's license with an eight-year expiration date, the person will not be eligible to electronically renew the driver's license at the next renewal period because the federal regulations require an in-person renewal and a new driver's license photograph at least once every 16 years. Finally, these amendments provide that if the person is upgrading from a minor's school license and the person has a secondary address on the driver's license because the person's parents are separated or divorced, the person will not be prevented from using the online system.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5384C**. 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 17, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the impact estimated by the Legislative Services Agency for 2020 Iowa Acts, House File 2360.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

TRANSPORTATION DEPARTMENT[761](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 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **602.11(1)“b”** as follows:

b. The license is issued for either two years or eight years.

(1) A qualified applicant who is at least 17 years, 11 months of age but not yet ~~72~~ 78 years of age shall be issued an eight-year license. However, the expiration date of the license issued shall not exceed the licensee's ~~74th~~ 80th birthday.

(2) A two-year license shall be issued to a qualified applicant who is under 17 years, 11 months of age or who is ~~72~~ 78 years of age or older.

(3) No change.

ITEM 2. Amend paragraph **602.12(1)“c”** as follows:

c. The license is issued for either two years or eight years.

(1) A qualified applicant who is at least 18 years of age but not yet ~~72~~ 78 years of age shall be issued an eight-year license. However, the expiration date of the license issued shall not exceed the licensee's ~~74th~~ 80th birthday.

(2) A two-year license shall be issued to a qualified applicant who is ~~72~~ 78 years of age or older.

(3) No change.

ITEM 3. Amend paragraph **602.13(1)“b”** as follows:

b. The license is issued for either two years or eight years.

(1) A qualified applicant who is at least 17 years, 11 months of age but not yet ~~72~~ 78 years of age shall be issued an eight-year license. However, the expiration date of the license issued shall not exceed the licensee's ~~74th~~ 80th birthday.

(2) A two-year license shall be issued to a qualified applicant who is under 17 years, 11 months of age or who is ~~72~~ 78 years of age or older.

(3) No change.

ITEM 4. Amend rule 761—604.50(321) as follows:

761—604.50(321) Special reexaminations.

604.50(1) ~~The~~ As provided in Iowa Code section 321.186, the department may require a special reexamination ~~consisting of a vision~~ of any licensee. The reexamination may consist of one or more of the following:

a. Medical report.

b. Vision report.

c. Vision screening, ~~cognitive.~~

d. Cognitive screening, ~~knowledge.~~

e. Knowledge test ~~and driving.~~

f. Driving test ~~of any licensee.~~

~~604.50(1)~~ **604.50(2)** The department may require a special reexamination when a licensee has been involved in a fatal motor vehicle accident and the investigating officer's report of the accident indicates the licensee contributed to the accident.

~~604.50(2)~~ **604.50(3)** The department may require a special reexamination when a licensee has been involved in two accidents within a three-year period and the investigating officer's report of each accident lists one of the following “Driver/Vehicle Related Contributing Circumstances” for the licensee:

a. to j. No change.

TRANSPORTATION DEPARTMENT[761](cont'd)

~~604.50(3)~~ **604.50(4)** The department may require a special reexamination when a licensee has been involved in an accident and the investigating officer's report lists a driver condition for the licensee of "fatigue or asleep."

~~604.50(4)~~ **604.50(5)** The department may require a special reexamination when a licensee who is 65 years of age or older has been involved in an accident and information in the investigating officer's or the person's own report of the accident indicates the need for reexamination. A circumstance that may indicate a need for reexamination includes, but is not limited to, any one of the following:

a. to *i.* No change.

~~604.50(5)~~ **604.50(6)** The department may require a special reexamination when the department receives an accident report or a recommendation by a peace officer, a court, or a properly documented citizen's request. A factor that may indicate a need for reexamination includes, but is not limited to, any one of the following:

a. to *g.* No change.

This rule is intended to implement Iowa Code sections 321.177, 321.186 and 321.210.

ITEM 5. Amend subrule 605.15(1), introductory paragraph, as follows:

605.15(1) *Six-month extension.* An Iowa resident may apply for a noncommercial six-month extension of a license if the resident:

ITEM 6. Adopt the following new rule 761—605.26(321):

761—605.26(321) Graduated driver's license upgrades. An applicant subject to the graduated driver's license requirements under Iowa Code section 321.180B who is otherwise eligible for a driver's license is eligible to electronically apply to upgrade the applicant's driver's license under this rule.

605.26(1) Except for the requirements in subparagraphs 605.25(7) "a"(1) and 605.25(7) "a"(2), the applicant must meet the eligibility requirements listed in paragraph 605.25(7) "a" to upgrade the license electronically and must also meet the following criteria:

a. The applicant must have been issued an intermediate license under Iowa Code section 321.180B(2) or a minor's school license under Iowa Code section 321.194 in person.

b. The applicant must otherwise be eligible to upgrade a license class privilege under Iowa Code section 321.180B or 321.194.

605.26(2) The requirements in paragraphs 605.25(7) "c" and 605.25(7) "d" shall also apply to a license issued under this rule.

605.26(3) If an applicant upgrades the applicant's driver's license electronically under this rule to a driver's license with an eight-year expiration date, the applicant is ineligible to electronically renew the applicant's full driver's license at the next renewal period.

605.26(4) Notwithstanding any other provision of this rule to the contrary, the department may accept an electronic application to upgrade a license containing a "J" restriction if the "J" restriction is related only to a secondary address.

This rule is intended to implement Iowa Code sections 321.180B and 321.194.

ITEM 7. Amend paragraph **607.16(2)"e"** as follows:

e. A commercial driver's license valid for eight years shall be issued to a qualified applicant who is at least 18 years of age but not yet ~~72~~ 78 years of age. However, the expiration date of the license issued shall not exceed the licensee's ~~74th~~ 80th birthday.

ITEM 8. Amend paragraph **607.16(2)"f"** as follows:

f. A commercial driver's license valid for two years shall be issued to a qualified applicant ~~72~~ 78 years of age or older. A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

ITEM 9. Adopt the following new subrule 607.16(5):

607.16(5) *License extension.*

a. As provided in 49 CFR Section 383.153, a person may apply for a 60-day extension of a commercial driver's license if the person:

TRANSPORTATION DEPARTMENT[761](cont'd)

- (1) Has a valid license,
- (2) Is eligible for further licensing, and
- (3) Is temporarily absent from Iowa or is temporarily incapacitated at the time for renewal.

b. The person shall apply for an extension by submitting Form 430027 to the department. The form may be obtained from and submitted to a driver's license service center. The person may also apply by letter to the address in 761—paragraph 605.12(1) "a."

c. A 60-day extension shall be added to the expiration date on the license. When the person appears to renew the license, the expiration date of the renewed license will be computed from the expiration date of the original license, notwithstanding the extension.

d. The department shall allow only one 60-day extension.

[Filed 2/17/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5496C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to driver's license sanctions

The Department of Transportation hereby amends Chapter 615, "Sanctions," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.210.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.210, 321.215, 321.216C, 321.555 and 321J.17.

Purpose and Summary

This rule making conforms Chapter 615 with current Department practice and legal authority and aligns the rules with 2020 Iowa Acts, Senate File 2268, which amended Iowa Code section 321.216C, and 2020 Iowa Acts, Senate File 457, section 54, which repealed two Iowa Code sections. Senate File 2268 raised from 18 years to 21 years old the age at which it is illegal for a person to possess fraudulent identification for the purposes of purchasing tobacco products. Senate File 457, section 54, repealed Iowa Code sections 321.218A and 321A.32A to eliminate the civil penalty for non-operating while intoxicated (OWI) driver's license sanctions.

These amendments add a nonpublic school authority to the list of persons authorized to report a violation of a minor's school license because that is the person authorized to certify the need for a minor's school license for a student attending private school.

These amendments specify that the driver improvement program provider schedules a person's attendance at a driver improvement program, which is current Department practice, and also clarify that if a person assigned to a driver improvement program fails to attend, that person will be issued a driver's license suspension equal to the required suspension length for the underlying offense. The current rule requires a 90-day suspension for a person who fails to attend a driver improvement program, but a 90-day suspension could result in a longer or shorter suspension period than what the original underlying offense would have otherwise required. Making the suspension period after a person fails to

TRANSPORTATION DEPARTMENT[761](cont'd)

attend a driver improvement program equal to the length of the original suspension is more equitable than requiring a longer or shorter suspension period than that required for the original offense.

This rule making rescinds the rule which authorizes the Department to conduct a driver improvement interview because that process is no longer used by the Department and was replaced with the informal administrative appeal process.

The amendments addressing temporary restricted licenses (TRLs) issued under Iowa Code section 321.215 align with current Department practice to allow a TRL unless prohibited by Iowa Code section 321.215 or by another Iowa Code section. These amendments more clearly reflect the Department's existing practice of allowing a TRL when a license is suspended because of nonpayment of court fines, violations of the nonresident violator compact or habitual offender bars if the person's habitual offender status is determined under Iowa Code section 321.555(1)"c" or 321.555(2). The changes allow a person whose driver's license is suspended or revoked for driving while under suspension or revocation to be eligible for a TRL if the person's underlying offense qualifies for a TRL. Allowing a TRL in this case is consistent with how sanctions for driving with a revoked license are treated under Iowa Code chapter 321J when the underlying offense is an OWI.

Finally, these amendments strike outdated requirements related to requesting an interview with a driver's license hearing officer and appearing before a driver's license examiner to obtain a TRL. Current Department practice does not require an interview or personal appearance before a specific classification of employee to obtain a TRL.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5385C**. 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 17, 2021.

Fiscal Impact

There is no fiscal impact to the State of Iowa because of this rule making beyond what was estimated in the fiscal note for 2020 Iowa Acts, Senate File 457.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making actions are adopted:

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 1. Amend rule 761—615.3(17A) as follows:

761—615.3(17A) Information and address. Applications, forms and information concerning license sanctions are available at any driver's license service center. Assistance is also available by mail from the Driver and Identification Services Bureau, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department's website at www.iowadot.gov.

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

ITEM 2. Amend rule 761—615.15(321) as follows:

761—615.15(321) Suspension for unlawful use of a license.

615.15(1) The department may suspend a person's license when the person has been convicted of unlawful or fraudulent use of the license or if the department has received other evidence that the person has violated Iowa Code section 321.216, 321.216A, ~~or~~ 321.216B or 321.216C.

615.15(2) and 615.15(3) No change.

This rule is intended to implement Iowa Code sections 321.210, 321.212, 321.216, 321.216A, ~~and 321.216B~~ and 321.216C.

ITEM 3. Amend paragraph **615.21(1)“b”** as follows:

b. The department may also suspend a minor's school license when the department receives written notice from a peace officer, parent, custodian or guardian, school superintendent, ~~or~~ superintendent's designee or nonpublic school authority that the licensee has violated the restrictions of the license.

ITEM 4. Amend rule 761—615.26(321) as follows:

761—615.26(321) Suspension ~~or revocation~~ for violation of a license restriction. The department may suspend ~~or revoke~~ a person's license when the department receives satisfactory evidence of a violation of a restriction imposed on the license. The suspension ~~or revocation~~ period shall be at least 30 days.

This rule is intended to implement Iowa Code section 321.193.

ITEM 5. Amend paragraph **615.38(2)“b”** as follows:

b. A request for an informal settlement, a request for a contested case hearing, or an appeal of a presiding officer's decision shall be submitted to the director of the driver and identification services bureau at the address in rule 761—615.3(17A).

ITEM 6. Amend paragraph **615.38(3)“c,”** introductory paragraph, as follows:

c. A request for an informal settlement or a request for a contested case hearing shall be deemed timely submitted if it is delivered to the director of the driver and identification services bureau or postmarked within the time period specified in the department's notice of the sanction.

ITEM 7. Amend subrule 615.40(2) as follows:

615.40(2) Paid the civil penalty when required by Iowa Code section 321J.17. ~~The civil penalty is specified in Iowa Code section 321.218A or 321A.32A.~~

ITEM 8. Amend rule **761—615.40(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.186, 321.191, 321.195, 321.208, 321.212, ~~321.218A, 321A.17 and 321A.32A~~ 321J.17.

ITEM 9. Amend subrule 615.43(2) as follows:

615.43(2) Scheduling. The department shall ~~schedule attendance at a program nearest~~ forward the person's contact information to the approved driver improvement program provider nearest the person's last known address. The provider will schedule the person's attendance at the provider's next available program opening.

TRANSPORTATION DEPARTMENT[761](cont'd)

a. One request for rescheduling may be granted by the provider if the program begins within 30 days of the originally scheduled date and if space is available.

b. No change.

ITEM 10. Amend subrule 615.43(4) as follows:

615.43(4) Failure to attend. The department shall suspend the license of a person who is required to attend a driver improvement program and who does not attend, or does not successfully complete, the program. The suspension period shall be at least 90 days for the length of the original underlying suspension.

ITEM 11. Rescind and reserve rule **761—615.44(321)**.

ITEM 12. Amend rule 761—615.45(321) as follows:

761—615.45(321) Temporary restricted license (work permit).

615.45(1) Ineligibility. The department shall not issue a temporary restricted license under Iowa Code section ~~321.215(1)~~ 321.215 to an applicant:

a. to d. No change.

~~e. Whose license has been suspended for failure to pay a fine, penalty, surcharge or court costs.~~

~~f. e.~~ Whose period of suspension or revocation has been extended for operating a motor vehicle while under suspension or revocation unless the underlying suspension or revocation qualifies for issuance of a temporary restricted license.

~~g. f.~~ Whose license has been mandatorily revoked under Iowa Code section 321.209, subsections 1 to 5 4 or subsection 7, or for a second or subsequent conviction for drag racing.

~~h. Whose license has been suspended under the nonresident violator compact.~~

~~i. g.~~ Whose license is barred under Iowa Code section 321.560 unless the applicant is declared to be a habitual offender under Iowa Code section 321.555(1) "c" or 321.555(2).

~~j. h.~~ Whose license has been suspended due to receipt of a certificate of noncompliance from the child support recovery unit.

~~k. Reserved.~~

~~l. i.~~ Whose license has been suspended for a charge of vehicular homicide.

~~m. j.~~ Whose license has been suspended under Iowa Code section 321.180B(3).

615.45(2) Application.

a. To obtain a temporary restricted license, an applicant shall complete and submit a written request for an interview with a driver's license hearing officer. The request shall be submitted Form 430100 and any supporting documentation to the driver and identification services bureau at the address in rule 761—615.3(17A).

~~b. If the driver's license hearing officer approves the issuance of a temporary restricted license, the officer shall furnish to the applicant application Form 430100, which is to be completed and submitted to driver and identification services.~~

~~e. b.~~ A temporary restricted license issued for employment may include permission for the licensee to transport dependent children to and from a location for child care when that activity is essential to continuation of the licensee's employment.

615.45(3) No change.

615.45(4) Additional requirements. An applicant for a temporary restricted license shall also:

a. and b. No change.

c. Pay the ~~required~~ civil penalty specified in when required by Iowa Code section 321.218A or 321A.32A 321J.17.

615.45(5) Issuance and restrictions.

a. When the application is approved and all requirements are met, the applicant shall be notified by the department to ~~appear before a driver's license examiner.~~ The applicant shall pass the appropriate examination for the type of vehicle to be operated under the temporary restricted license. An Iowa resident shall also pay the reinstatement and license fees.

TRANSPORTATION DEPARTMENT[761](cont'd)

b. No change.

615.45(6) No change.

This rule is intended to implement Iowa Code chapter 321A and sections 252J.8, 321.177, 321.178, 321.184, 321.185, 321.186, 321.189, 321.191, 321.193, 321.194, 321.201, 321.205, 321.209, 321.210, 321.210A, 321.212, 321.213A, 321.213B, 321.215, 321.218, ~~321.218A~~, 321.513, and 321.560 and 321J.17.

[Filed 2/17/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5497C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to applications

The Department of Transportation hereby amends Chapter 920, "State Transit Assistance," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 324A.

Purpose and Summary

These amendments modify subrule 920.4(2) to specify that applications for training fellowships may be submitted to the Department at any time throughout the year and add a new paragraph to state that applications for special projects are due annually on October 1. Currently, all special project funding is issued on a first-come, first-served basis. However, because special projects are increasing in size and funds are limited, the Department is implementing a deadline to allow for competition for funding for special projects.

These amendments also correct the name of the Public Transit Bureau and add a definition of "urban transit system" to include a population threshold of 20,000.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 16, 2020, as **ARC 5312C**. 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 9, 2021.

Fiscal Impact

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

Jobs Impact

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—920.2(324A) as follows:

761—920.2(324A) General information. The department shall post annually the required forms and instructions for applying for state transit assistance to the department's ~~Web site~~ [website](#) at www.iowadot.gov and notify each public transit system in Iowa of the availability. Requests for assistance and questions about application preparation should be directed to: ~~Office of Public Transit Bureau~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)233-7870.

ITEM 2. Amend rule 761—920.3(324A), introductory paragraph, as follows:

761—920.3(324A) Definitions. The definitions in Iowa Code section 324A.1, except for the definition of "urban transit system," apply to this chapter. In addition:

ITEM 3. Adopt the following **new** definition of "Urban transit system" in rule **761—920.3(324A)**:
 "Urban transit system" means a system designated by the department which meets the requirements of Iowa Code section 324A.1(8). To be designated as an urban transit system for the purposes of this chapter, the system must serve a city or urbanized area with a population of 20,000 or more. The system also must be managed by a board of local officials who have either been elected by the public or appointed by elected officials, and who are responsible for policy and oversight of transit services for one or more incorporated areas within Iowa.

ITEM 4. Amend subrule 920.4(2) as follows:

920.4(2) Special projects.

- a. No change.
- b. ~~Proposals~~ Applications for ~~special projects~~ training fellowships may be submitted to the department at any time.
- c. Applications for special projects are due to the department by October 1 each year. The department may announce to the public transit systems the acceptance of special project applications at other times of the year if unobligated funds are available.

[Filed 2/11/21, effective 4/14/21]

[Published 3/10/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

ARC 5498C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed****Rule making related to public transit**

The Department of Transportation hereby amends Chapter 923, “Capital Match Revolving Loan Fund,” and Chapter 924, “Public Transit Infrastructure Grant Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 307.12 and 1985 Iowa Acts, chapter 265.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 324A and 1985 Iowa Acts, chapter 265.

Purpose and Summary

The amendments to Chapter 923 correct the name of the Public Transit Bureau and clarify that primary documentation must be kept for a period of three years following contract closeout. The other amendments to this chapter concern the project eligibility criteria. The project must be included in the public system’s adopted transportation improvement program, and the criterion requiring that the project be part of a statewide program is stricken because it is no longer needed. If the project was included by the transit agency in its adopted transportation improvement program, the project is then automatically included in the statewide program of transit projects.

The amendments to Chapter 924 amend the definition of “public transit system” so that it means the same as the definition in Iowa Code chapter 324A, correct the name of the Public Transit Bureau, add a new subrule stating that no public transit system may receive more than 40 percent of the funding available in one year to match the guidance the Department has given the public transit agencies for years, and add an explanation of where the useful life thresholds of transit structures and facilities can be found to ensure applicants are aware of long-term commitment.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 16, 2020, as **ARC 5313C**. 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 9, 2021.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 923.1(2) as follows:

923.1(2) Information. Requests for information about and for assistance with the preparation and submission of loan requests should be directed to the ~~Office of Public Transit Bureau~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)233-7870. Information is also available on the department's website at www.iowadot.gov.

ITEM 2. Amend subrule 923.3(2) as follows:

923.3(2) The transit system maintains primary documentation for all revenues and expenses for a period of at least three years following contract closeout.

ITEM 3. Amend rule 761—923.4(71GA,ch265) as follows:

761—923.4(71GA,ch265) Project eligibility.

923.4(1) A project is eligible if it meets all of the following criteria:

- a. No change.
- b. The project meets an identifiable transit need that has been included in the public transit system's ~~planning or programming document~~ adopted transportation improvement program.
- ~~c. The project is part of a statewide program of transit projects which has been adopted by the transportation commission.~~
- ~~d. c.~~ The local funding needed for the project justifiably exceeds the public transit system's annual capital match funding capability.

923.4(2) No change.

ITEM 4. Amend rule ~~761—924.2(324A)~~, definition of "Public transit system," as follows:

"Public transit system" means ~~one of the regional transit systems or urban transit systems designated under~~ same as defined in Iowa Code section 324A.1.

ITEM 5. Amend rule 761—924.3(324A) as follows:

761—924.3(324A) Information and forms. Information, instructions, and application forms are available from the ~~Office of Public Transit Bureau~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)233-7870; or the department's ~~Web site~~ website at www.iowadot.gov.

ITEM 6. Adopt the following **new** subrule 924.10(4):

924.10(4) No single public transit system may receive more than 40 percent of the funding available in one year.

ITEM 7. Amend subrule 924.16(3) as follows:

924.16(3) Ownership. The transit system must retain ownership of the new, renovated or repaired structure or facility for its useful life. If the structure or facility is transferred to a subcontracted entity or is sold before the useful life has expired, the transit system must repay the prorated state interest to

TRANSPORTATION DEPARTMENT[761](cont'd)

the department. Useful life thresholds can be found in the department's transit manager's handbook, available on the department's website at www.iowadot.gov.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.

PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR ELECTRONIC FORMAT DUE TO COVID-19

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a Notice of Intended Action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 108 of the Governor's proclamation of disaster emergency issued March 5, 2021: governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202021.03.05.pdf.