



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2019

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
21	Friday, March 22, 2019	April 10, 2019
22	Friday, April 5, 2019	April 24, 2019
23	Friday, April 19, 2019	May 8, 2019

PLEASE NOTE:

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

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

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

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

INSURANCE DIVISION[191]

Unfair trade practices—standards
for annuity illustrations, 15.66
IAB 3/13/19 **ARC 4326C**

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

April 2, 2019
11 a.m. to 12 noon

LABOR SERVICES DIVISION[875]

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

150 Des Moines St.
Des Moines, Iowa

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

TRANSPORTATION DEPARTMENT[761]

Petition submission methods; oral
presentation information; office
name and address updates,
amendments to chs 10 to 12
IAB 3/13/19 **ARC 4325C**

Department of Transportation
Administration Bldg.
First Floor, South Conference Room
800 Lincoln Way
Ames, Iowa

April 4, 2019
10 a.m.
(If requested)

Tourist-oriented directional
signing, 119.1, 119.2,
119.4(1)“a,” 119.5(4), 119.6
IAB 2/27/19 **ARC 4317C**

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

March 21, 2019
10 a.m.
(If requested)

Nonoperator’s identification,
630.1(2), 630.2
IAB 2/27/19 **ARC 4313C**

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

March 21, 2019
1 p.m.
(If requested)

UTILITIES DIVISION[199]

Approval of appraiser for
municipal utilities, 32.10
IAB 2/27/19 **ARC 4315C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

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

Energy efficiency and demand
response planning and reporting
for natural gas and electric
utilities required to be
rate-regulated, ch 35
IAB 2/13/19 **ARC 4285C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

March 13, 2019
9 to 11 a.m.

The following list will be updated as changes occur.

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

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

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

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ARC 4331C

CREDIT UNION DIVISION[189]

Notice of Intended Action

Proposing rule making related to board of directors and branch applications and providing an opportunity for public comment

The Credit Union Division hereby proposes to amend Chapter 2, “Organization, Chartering and Field of Membership of a Credit Union,” and Chapter 6, “Branch Offices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 533.104(5) and 533.107(6).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 533.113A, 533.205(3)“c” and 533.301(19).

Purpose and Summary

The proposed amendment to Chapter 2 moves the content of existing rule 189—2.9(533) to rule 189—2.8(533) and codifies in proposed rule 189—2.9(533) board of directors meeting requirements with respect to frequency of meetings and quorum requirements. The proposed amendments to Chapter 6 reflect a modernization of the current requirements for filing branch applications and establish a penalty for failure to comply with the applicable application requirements.

These proposed amendments were approved by the Credit Union Review Board on January 25, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to rule 189—17.20(533) and the process outlined in 189—Chapter 23.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on April 2, 2019. Comments should be directed to:

Credit Union Division
200 East Grand Avenue, Suite 370
Des Moines, Iowa 50309-1827
Fax: 515.725.0519

CREDIT UNION DIVISION[189](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rules 189—2.8(533) and 189—2.9(533) as follows:

189—2.8(533) Incorporation and commencement of business.

2.8(1) and **2.8(2)** No change.

2.8(3) Commencement of business. A credit union shall not commence business (which shall include, but not be limited to, the incurring of any obligation or the commitment of any of its assets) until its chartering and incorporation are completed, and deposit insurance is obtained as required by law. A newly chartered credit union must commence business within 60 days after the date its charter is approved, or the credit union’s certificate of approval may be revoked by the superintendent.

189—2.9(533) Commencement of business Board of directors meeting requirements. ~~A credit union shall not commence business (which shall include, but not be limited to, the incurring of any obligation or the commitment of any of its assets) until its chartering and incorporation are completed, and deposit insurance is obtained as required by law. A newly chartered credit union must commence business within 60 days after the date its charter is approved, or the credit union’s certificate of approval may be revoked by the superintendent.~~

2.9(1) The board of directors shall hold at least 12 regular meetings each calendar year. No more than one regular meeting shall be held in one calendar month.

2.9(2) A quorum shall be required to undertake any credit union business and required at any meeting of the board of directors called by the superintendent pursuant to Iowa Code chapter 533.

This rule is intended to implement Iowa Code sections 533.205(3) “c” and 533.113A.

ITEM 2. Amend subrule 6.1(2) as follows:

6.1(2) Application. A state chartered credit union desiring to establish and operate a branch or administrative office shall submit to the superintendent an “Application to Establish a Branch or Office.” A state chartered credit union owning an interest in a credit union service organization shall submit to the superintendent an “Application to Establish a Branch or Office” for any building which is intended to be used primarily by the credit union or credit union members, even if the building is owned by the credit union service organization. The application and instructions for preparing and filing it are furnished upon request. However, the superintendent may waive the application requirement when in the superintendent’s opinion the waiver is necessary or desirable.

ITEM 3. Adopt the following **new** subrule 6.1(7):

6.1(7) Failure to file application. Failure to file an “Application to Establish a Branch or Office” prior to closing on existing real estate or breaking ground on a building project may result in a fine of \$100 per day, upon notice from the credit union division, until the application is submitted to the credit union division.

ARC 4329C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Notice of Intended Action****Proposing rule making related to community attraction and tourism programs and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 211, “Community Attraction and Tourism Development (CATD) Programs,” and Chapter 213, “Vision Iowa Board: Uniform Waiver and Variance Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 15.106A and 15F.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 15F.201 to 15F.206.

Purpose and Summary

Pursuant to Iowa Code section 17A.7(2), the Enhance Iowa Board and Authority staff reviewed the administrative rules for the Community Attraction and Tourism (CAT) program. Authority staff recommended amendments to Chapters 211 and 213 to clarify the rules and make the programs easier to use for CAT program applicants and award recipients.

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 213.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on April 2, 2019. Comments should be directed to:

Kristin Hanks-Bents
Iowa Economic Development Authority
200 East Grand Avenue
Des Moines, Iowa 50309
Email: kristin.hanks-bents@iowaEDA.com

Public Hearing

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **261—Chapter 211**, title, as follows:

COMMUNITY ATTRACTION AND
TOURISM DEVELOPMENT (~~CATD~~) (CAT) PROGRAMS

ITEM 2. Amend rule 261—211.1(15F) as follows:

261—211.1(15F) Purpose. The community attraction and tourism development programs are designed to assist communities in the development and creation of multiple-purpose attraction and tourism facilities. The ~~CATD~~ CAT programs include the CAT fund and the RECAT fund. The rules in this division apply to all applications and awards from the CAT and RECAT funds.

ITEM 3. Amend rule 261—211.2(15F) as follows:

261—211.2(15F) Definitions. When used in this chapter, unless the context otherwise requires:

“Attraction” means a permanently located recreational, cultural, educational, or entertainment activity that is available to the general public.

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

“Board” means the ~~vision enhance~~ Iowa board established by Iowa Code section 15F.102.

“CAT” means ~~the~~ community attraction and tourism ~~component of the CATD~~ programs.

“CATD” means ~~community attraction and tourism development.~~

“CATD programs” means ~~the CAT fund and RECAT fund.~~

“CAT fund” means the community attraction and tourism fund established pursuant to Iowa Code section 15F.204.

“Community” or *“political subdivision”* means a city or county, or an entity established pursuant to Iowa Code chapter 28E.

“Community attraction and tourism program review committee” or *“CAT review committee”* means the committee established by Iowa Code section 15F.203(2) and identified as the following members of the ~~vision enhance~~ Iowa board: ~~three members of the general public, one from each of the three tourism regions; the mayor of a city with a population of less than 20,000; and the county supervisor from a county that has a population ranking in the bottom 33 counties according to the 1990 census. The chair and vice chair of the vision Iowa board may serve as ex officio members of any subcommittee of the board~~ one member from each congressional district and one member from the state at large.

“Department” or *“IDED”* means the Iowa department of economic development.

“Economic development organization” means an entity organized to position a community to take advantage of economic development opportunities and strengthen a community's competitiveness as a place to work and live.

“Float loan” or *“interim financing”* means ~~a short-term loan (maximum of 30 months) from obligated but unexpended funds.~~

“Loan” means ~~an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A deferred loan is one for which the payment of principal, interest, or both is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“Local support” means endorsement by local individuals, ~~and organizations and political subdivisions~~ that have a substantial interest in a project.

“Nonfinancial support” may include, but is not limited to, the value of labor and services which may not total more than 25 percent of a local match. Real property and personal property donated for purposes of the project are considered financial support at their fair market value.

“Private organization” means a corporation, partnership, or other organization that is operated for profit.

“Public organization” means a not-for-profit economic development organization or other not-for-profit organization, including those that sponsor or support one that sponsors or supports community or tourism attractions and activities.

“RECAT” means river enhancement community attraction and tourism.

“RECAT fund” means the river enhancement community attraction and tourism fund established pursuant to Iowa Code section 15F.205.

“Recipient” means the entity under contract with the ~~vision~~ enhance Iowa board to receive CAT or RECAT funds and undertake the funded activity.

“Recreational and cultural attraction” means an attraction that enhances the quality of life in the community.

“River enhancement community attraction and tourism project” means a project that creates or enhances recreational opportunities and community attractions on and near lakes or rivers or river corridors within cities across the state under the purview of the program.

“School district” means a school corporation organized under Iowa Code chapter 274.

“Subrecipient” means a private organization or other entity operating under an agreement or contract with a recipient to carry out a funded CAT or RECAT activity.

“Tourism opportunity” means a facility that draws people into the community from at least 50 miles (one way) away from home.

“Vertical infrastructure” means land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, ~~and recreational trails and water trails.~~ “Vertical infrastructure” does not include routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

“Vision Iowa program review committee” means the committee established by Iowa Code section 15F.304(2) as amended by 2009 Iowa Acts, House File 822, and identified as the following members of the vision enhance Iowa board: ~~four members of the general public, the mayor of a city with a population of 20,000 or more, the director of the Iowa department of economic development or designee, the treasurer of state or designee, and the auditor of state or designee. The chairperson and vice chairperson of the vision Iowa board may serve as ex officio members of any subcommittee of the board one member from each congressional district and two members from the state at large.~~

ITEM 4. Amend rule 261—211.3(15F) as follows:

261—211.3(15F) Program components Forms of assistance. ~~There are four direct components of the CATD programs. The first component relates to community attraction, tourism or leisure projects that are sponsored by political subdivisions, public organizations, and school districts in cooperation with a city or county. This component is referred to as the community attraction component. The second component provides community attraction and tourism development funds for interim financing for eligible projects under the community attraction component. This component is referred to as the interim financing component. The third component relates to river enhancement community attraction and tourism projects. This component is referred to as the river enhancement component. The fourth component relates to marketing projects that have received funding from the vision Iowa or CATD programs. This component is referred to as the marketing component.~~

211.3(1) Community attraction component and tourism—CAT. ~~The objective of the CAT component is to provide CAT program provides financial assistance for community-sponsored attraction and tourism projects. Community attraction projects may include but are not limited to the following: museums, theme parks, cultural and recreational centers, heritage attractions, sports arenas and other attractions.~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~211.3(2) Interim financing component.~~

~~a. The objective of the interim financing component is to provide short-term financial assistance for eligible community attraction and tourism projects. Financial assistance may be provided as a float loan. A float loan may only be made for projects that can provide the vision Iowa board with an irrevocable letter of credit or equivalent security instrument from a lending institution rated AA or better, in an amount equal to or greater than the principal amount of the loan.~~

~~b. Applications for float loans shall be processed, reviewed and considered on a first-come, first-served basis to the extent funds are available. Applications that are incomplete or require additional information, investigation or extended negotiation may lose funding priority. Applications for float loans shall meet all other criteria required for the community attraction component.~~

~~**211.3(3) 211.3(2) River enhancement component community attraction and tourism—RECAT.** The objective of the RECAT component is to provide program provides financial assistance for projects that are related to, closely connected with, and enhance rivers, lakes, or river corridors within cities. River enhancement projects may include but are not limited to pedestrian trails and walkways, amphitheaters, bike trails, water trails or white water courses for watercraft, and any modifications necessary for the safe mitigation of dams create or enhance recreational opportunities and community attractions on and near lakes or rivers or river corridors within cities.~~

~~**211.3(4) 211.3(3) Marketing component.** The objective of the CAT marketing component is to provide provides financial assistance for the marketing of vision Iowa or CATD, CAT and RECAT projects.~~

ITEM 5. Amend rule 261—211.4(15F) as follows:

261—211.4(15F) Eligible applicants. Eligible applicants for CAT and RECAT funds include political subdivisions, cities, counties, public organizations, and school districts in cooperation with a city or county. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants. A school district must apply jointly with a city or county.

~~**211.4(1)** Any eligible applicant may apply directly or on behalf of a subrecipient.~~

~~**211.4(2)** Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.~~

ITEM 6. Amend rule 261—211.5(15F) as follows:

261—211.5(15F) Eligible projects and forms of assistance.

~~**211.5(1)** Eligible projects include those which are related to a community or tourism attraction, and which would provide recreational, cultural, entertainment and educational opportunities. Funded projects must position a community to take advantage of economic development opportunities in tourism and strengthen a community's competitiveness as a place to work and live. Eligible projects include building construction or reconstruction, rehabilitation, conversion, acquisition, demolition for the purpose of clearing lots for development, site improvement, equipment purchases, and other projects as may be deemed appropriate by the vision Iowa board. Completed projects must be open to the public for general use.~~

~~**211.5(2)** Eligible forms of assistance include grants, interest-bearing loans, non-interest-bearing loans, float loans under the interim financing component, interest subsidies, deferred payment loans, forgivable loans, or other forms of assistance as may be approved by the vision Iowa board. Eligible CAT and RECAT projects must be primarily vertical infrastructure projects.~~

~~**211.5(3)** Financial assistance for an eligible project may be provided in the form of a multiyear award to be paid in increments over a period of years, subject to the availability of funds. The enhance Iowa board has the option of funding a component of a proposed project.~~

~~**211.5(4)** IDED, with the approval of the chair or vice chair of the vision Iowa board, reserves the right to make technical corrections which are within the intent of the terms of a board-approved award.~~

~~**211.5(5)** Applicants must report other sources of funding or pending funding, public or private, for the project including the local recreation infrastructure grants program administered by the Iowa~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~department of natural resources and the Iowa historic site preservation grant program administered by the historical division of the Iowa department of cultural affairs. IDEED may consult with appropriate staff from the department of cultural affairs and the department of natural resources to coordinate the review of applications under the programs.~~

ITEM 7. Amend rule 261—211.6(15F) as follows:

261—211.6(15F) Ineligible projects.

~~211.6(1) The vision enhance Iowa board shall not approve an application for assistance under this program to refinance an existing loan.~~

~~211.6(2) An applicant A recipient may not receive more than one CAT or RECAT award under the CATD programs for a single project. However, previously funded projects may receive an additional award(s) if the applicant demonstrates that the funding is to be used for a significant expansion of the project, or a new project, or a project that results from previous project development assistance.~~

~~211.6(3) The vision enhance Iowa board shall not approve an application for assistance in which the combination of RECAT and CAT funding CAT or RECAT funding plus other state funds would constitute more than 50 percent of the total project costs. RECAT funding may constitute up to one-third of the total project cost. A portion of the resources provided by the applicant for project costs may be in the form of in-kind or nonfinancial contributions.~~

~~211.6(4) Work completed and costs incurred, except the acquisition of real estate, prior to the date of a potential CAT or RECAT award are ineligible for funding under the CAT programs.~~

ITEM 8. Amend rule 261—211.7(15F) as follows:

~~261—211.7(15F) Threshold application~~ **Application requirements.** ~~To be considered for funding under the CATD programs, an application must meet the following threshold requirements~~ At a minimum, CAT and RECAT applications must contain the following information:

~~211.7(1) There must be demonstrated local support for the proposed activity. The total capital investment of the project, including but not limited to costs for construction, site acquisition, and infrastructure improvement.~~

~~211.7(2) A need for the CAT or RECAT funds must exist after other financial resources have been identified for the proposed project. The amount or percentage of local and private matching moneys which will be or have been provided for the project. Moneys raised at any time and not yet spent may be considered as local match. Up to 25 percent of the local match may be nonfinancial support.~~

~~211.7(3) The proposed project must primarily involve the creation or renovation of vertical infrastructure with demonstrated substantial regional or statewide economic impact. The total number of jobs to be created or retained by the project.~~

~~211.7(4) The project must provide and pay at least 50 percent of the cost of a standard medical insurance plan for all full-time employees working at the project after the completion of the project for which financial assistance was received. The long-term tax-generating impact of the project.~~

~~211.7(5) A joint application from a school district in cooperation with a city or county must demonstrate that the intended future use of the project shall be by both joint applicants.~~

ITEM 9. Rescind rule 261—211.8(15F) and adopt the following **new** rule in lieu thereof:

261—211.8(15F) Application review.

211.8(1) Authority staff will review CAT and RECAT applications to ensure the applications meet the threshold requirements set forth in subrule 211.8(2). All eligible applications will be forwarded to and reviewed by the enhance Iowa board. Applications that do not meet the threshold requirements will not be forwarded to the enhance Iowa board for review.

211.8(2) Authority staff will review each application for the following information:

- a. Local support for the proposed activity.
- b. Whether the proposed project is primarily a vertical infrastructure project.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

c. Certification from the applicant that the applicant will provide and pay for at least 50 percent of the cost of a standard medical insurance plan for all full-time employees working at the project after the completion of the project for which financial assistance was received.

d. At least 65 percent of the funds needed to complete the proposed project have been raised or pledged. Other state funds cannot be counted as match until the applicant can document that at least 50 percent of the funds have been raised.

211.8(3) The CAT and vision Iowa program review committees shall consider, at a minimum, the following:

a. Whether the wages, benefits, including health benefits, safety, and other attributes of the project would improve the quality of life or the quality of the attraction or tourism employment in the community.

b. The extent to which such a project would generate additional recreational and cultural attractions or tourism opportunities.

c. The ability of the project to produce a long-term, tax-generating economic impact.

d. The location of the projects and geographic diversity of the applications.

e. The project is primarily a vertical infrastructure project with demonstrated substantial regional or statewide economic impact.

f. Whether the applicant has received financial assistance under the program for the same project.

g. The extent to which the project has taken the following planning principles into consideration:

(1) Efficient and effective use of land resources and existing infrastructure by encouraging development in areas with existing infrastructure or capacity to avoid costly duplication of services and costly use of land.

(2) Provision for a variety of transportation choices, including pedestrian traffic.

(3) Maintenance of a unique sense of place by respecting local cultural and natural environmental features.

(4) Conservation of open space and farmland and preservation of critical environmental areas.

(5) Promotion of safety, livability, and revitalization of existing urban and rural communities.

ITEM 10. Amend rule 261—211.9(15F) as follows:

261—211.9(15F) Application procedure. Subject to availability of funds, applications ~~are reviewed by IDEED staff on an ongoing basis and reviewed at least quarterly~~ will be accepted by the board quarterly. ~~Applications will be reviewed by staff~~ Authority staff will review applications for completeness and eligibility. ~~If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information.~~ A review, analysis and evaluation from the ~~IDEED~~ IDEED authority staff will be submitted to the CAT and vision Iowa program review committees of the board, ~~who which~~ which will then make a final recommendation to the complete board for final approval, denial or deferral. ~~The vision Iowa board has the option of funding a component of a proposed project if the entire project does not qualify for funding.~~

211.9(1) ~~Application forms shall be available upon request from IDEED, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3197; and on IDEED's Web site at www.iowalifechanging.com.~~ Applicants must submit a notice of intent to apply on a form provided by the authority. The authority will send standard application forms to those applicants who have submitted a notice of intent to apply. The notice of intent to apply form will be available on the enhance Iowa web page. The authority can waive this requirement for good cause.

211.9(2) ~~IDEED Authority staff~~ Authority staff may provide technical assistance ~~to applicants~~ as necessary. ~~IDEED Authority staff and board members may conduct on-site evaluations of proposed projects.~~

211.9(3) Applications shall include, at a minimum, the information detailed in ~~rule 211.8(15F),~~ application review criteria requirements.

211.9(4) Incomplete or ineligible applications will not be forwarded to the board for review.

ITEM 11. Amend subrules 211.10(1) to 211.10(6) as follows:

211.10(1) *Administration of awards.*

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a. A contract shall be executed between the recipient and the ~~vision enhance~~ Iowa board. These rules and applicable state laws and regulations shall be part of the contract. The board reserves the right to negotiate ~~wage rates as well as other~~ terms and conditions of the contract.

b. The recipient must execute and return the contract to the ~~vision enhance~~ Iowa board within 45 days of transmittal of the final contract from the ~~vision enhance~~ Iowa board. Failure to do so may be cause for the ~~vision enhance~~ Iowa board to terminate the award.

c. Certain projects may require that permits or clearances be obtained from other state or local agencies before the project may proceed. Awards may be conditioned upon the timely completion of these requirements.

d. Awards may be conditioned upon commitment of other sources of funds necessary to complete the project.

e. Awards may be conditioned upon ~~IDED~~ the authority's receipt and board approval of an implementation plan for the funded project.

f. The authority, with the approval of the chair or vice chair of the enhance Iowa board, reserves the right to make technical corrections that are within the intent of the terms of a board-approved award.

211.10(2) ~~Requests for Disbursement of funds.~~ Recipients shall submit requests for funds in the manner and on forms prescribed by ~~IDED~~ the authority. Individual requests for funds shall be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.

211.10(3) ~~Record keeping and retention.~~ The recipient shall retain all financial records, supporting documents and all other records pertinent to the ~~community attraction and tourism development activity funded CAT or RECAT project~~ for three years after contract closeout. Representatives of ~~IDED~~ the authority shall have access to all records belonging to or in use by recipients pertaining to ~~community attraction and tourism development~~ CAT and RECAT funds.

211.10(4) ~~Performance reports and reviews.~~ ~~Recipients~~ Upon request of the authority or the enhance Iowa board, recipients shall submit performance reports to ~~IDED~~ in the manner and on forms prescribed by ~~IDED~~ the authority. Reports shall assess the use of funds and progress of activities. ~~IDED~~ The authority may perform any reviews or field inspections necessary to ensure ~~recipient~~ each recipient's performance.

211.10(5) ~~Amendments to contracts.~~ Any substantive change to a contract shall be considered an amendment. ~~Changes~~ Substantive changes include time extensions, budget revisions and significant ~~alteration~~ alterations of the funded project that change the scope, location, objectives or scale of the approved project. Amendments must be requested in writing by the recipient and are not considered valid until approved by the ~~vision enhance~~ Iowa board and confirmed in writing by ~~IDED~~ following the procedure specified in the contract between the recipient and IDED.

211.10(6) ~~Contract closeout.~~ Upon ~~contract expiration, IDED~~ project completion, the authority shall initiate contract closeout procedures.

ITEM 12. Amend rule 261—211.51(15F) as follows:

261—211.51(15F) Allocation of funds.

211.51(1) ~~Except as otherwise noted in this rule, all CAT funds shall be awarded for projects as specified in rule 211.3(15F).~~

211.51(2) 211.51(1) One-third of the moneys shall be allocated to provide assistance to projects located in cities and counties which meet the following criteria:

a. A city which has a population of 10,000 or less according to the most recently published census.

b. A county which has a population that ranks in the bottom 33 counties according to the most recently published census.

211.51(3) 211.51(2) Two-thirds of the moneys shall be allocated to provide assistance to projects in any city and county in the state, which may include a city or county included under subrule 211.51(2) 211.51(1).

211.51(4) 211.51(3) If two or more cities or counties submit a joint project application for financial assistance from the CAT fund, all joint applicants must meet the criteria of subrule 211.51(2) 211.51(1) in order to receive any moneys allocated under that subrule.

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~~211.51(5)~~ **211.51(4)** If any portion of the allocated moneys under subrule ~~211.51(2)~~ **211.51(1)** has not been awarded by April 1 of the fiscal year for which the allocation is made, the portion which has not been awarded may be utilized by the ~~vision enhance~~ Iowa board to provide financial assistance from the CAT fund to projects located in any city or county in the state.

ITEM 13. Amend rule 261—211.102(15F) as follows:

261—211.102(15F) Allocation of funds Application contents.

~~211.102(1)~~ Except as otherwise noted in this rule, all river enhancement community attraction and tourism funds shall be awarded for projects as specified in rule 211.3(15F).

~~211.102(2)~~ Application contents. Applications for river enhancement RECAT projects shall include, as an exhibit to the standard CATD program application, information about the project's connection and interaction with a river, lake or river corridor. "Lake" means a lake of which the state or a political subdivision owns the lake bed up to the ordinary high water line and which is open to the use of the general public.

~~211.102(3)~~ Application review criteria. In addition to the application review criteria in rule 211.8(15F), river enhancement projects shall be reviewed using the following additional criteria:

a.—Connection and interaction with a river, lake or river corridor. The extent that the project relates to, connects with, and enhances a body of water. An explanation of the relevance of the body of water with regard to the project overall (0-5 points).

b.—A description of the green sustainable design and construction practices, including storm water best management practices, such as permeable pavement, bioretention cells, and bioswales that will be utilized on the project to protect from pollution the body of water enhanced by the project (0-5 points).

ITEM 14. Rescind rule **261—211.103(15F)**.

ITEM 15. Amend **261—Chapter 213**, title, as follows:

**VISION ENHANCE IOWA BOARD: UNIFORM WAIVER
AND VARIANCE RULES**

ITEM 16. Amend subrule **213.1(1)**, definition of "Board," as follows:

"Board" or "~~vision enhance~~ Iowa board" means the ~~vision enhance~~ Iowa board established by 2000 Iowa Acts, chapter 1174 Iowa Code section 15F.102.

ITEM 17. Amend subrule 213.3(1) as follows:

213.3(1) Application. All petitions for waiver or variance must be submitted in writing to the Vision Enhance Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309-1819. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

ITEM 18. Amend rule 261—213.6(17A,ExecOrd11) as follows:

261—213.6(17A,ExecOrd11) Public availability. Subject to the provisions of Iowa Code section 17A.3(1)"e," the board shall maintain a record of all orders granting or 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 at the Vision Enhance Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309-1819.

ITEM 19. Amend rule 261—213.10(17A,ExecOrd11) as follows:

261—213.10(17A,ExecOrd11) Appeals. Granting or denying a request for waiver or variance is final agency action under Iowa Code chapter 17A. An appeal to district court shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

Exhibit A
 Sample Petition (Request) for Waiver/Variance
 BEFORE THE VISION ENHANCE IOWA BOARD

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



PETITION FOR
 WAIVER

Requests for waiver or variance from a board rule shall include the following information in the petition for waiver or variance where applicable and known:

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

I hereby attest to the accuracy and truthfulness of the above information.

 Petitioner’s signature

 Date

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

1. The petitioner has the burden of proving to the board, by clear and convincing evidence, the following: (a) application of the rule to the petitioner would result in hardship or injustice to the petitioner; and (b) waiver or variance on the basis of the particular circumstances relative to the petitioner would be consistent with the public interest; and (c) waiver or variance in the specific case would not prejudice the substantial legal rights of any person; and (d) where applicable, how

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substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver or variance is requested.

2. The board may request additional information from or request an informal meeting with the petitioner prior to issuing a ruling granting or denying a request for waiver or variance.

3. All petitions for waiver or variance must be submitted in writing to the ~~Vision~~ Enhance Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309-1819. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

ITEM 20. Amend ~~261~~—**Chapter 213**, implementation sentence, as follows:

These rules are intended to implement Executive Order Number 11, Iowa Code chapter 17A, and ~~2000 Iowa Acts, chapter 1174~~ Iowa Code section 15F.102.

ARC 4330C

HISTORICAL DIVISION[223]

Notice of Intended Action

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

The Department of Cultural Affairs hereby proposes to amend Chapter 21, “Membership in the Society,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 303.1A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 303.8.

Purpose and Summary

Through this proposed rule making, the State Historical Society of Iowa is updating its board history awards to reflect more appropriate deadlines and submission processes in addition to introducing new awards to ensure all Iowa history categories and works are eligible for recognition.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. This rule making adds new awards and clarifies rules for existing awards. These awards are honorary, not financial.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral 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, 2019. Comments should be directed to:

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Susan Kloewer
 Administrator, State Historical Society of Iowa
 600 East Locust Street
 Des Moines, Iowa 50319-1006
 Phone: 515.281.8749
 Email: susan.kloewer@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rules 223—21.2(303) and 223—21.3(303) as follows:

223—21.2(303) Fees. Fees are charged for benefits and services provided to members. The membership program is administered by the Historical Division of the Department of Cultural Affairs, 600 East Locust Street, Des Moines, Iowa 50319, telephone ~~(515)281-8741~~ [\(515\)281-5111](tel:(515)281-5111).

223—21.3(303) Awards.

21.3(1) Purpose. The society shall make annual awards to individuals, government entities, groups, or organizations for the purposes of encouraging and rewarding contributions to the ~~field~~ fields of Iowa history, archaeology and historic preservation; establishing an image of tradition and continuity; creating greater public and academic visibility for the society; and promoting high-quality rehabilitation of historic buildings.

21.3(2) Award programs. Awards ~~shall~~ may be made in ~~seven~~ nine programs.

a. *William J. Petersen/Edgar Harlan Award.* This award recognizes an individual, government entity, group, or organization that has made significant long-term or continuing contributions to Iowa history. No more than one award ~~shall~~ may be ~~given~~ made annually.

b. *Loren Horton Community History Award.* This award recognizes an individual, government entity, group, or organization that has made a significant contribution to local history through a local history project during the previous calendar year. No more than one award ~~shall~~ may be given annually. One certificate of recognition may be awarded in each of the following categories each year:

- (1) Program or event;
- (2) Volunteers;
- (3) Project in museum, library, archives, historic preservation, or education;
- (4) Research or publications;
- (5) Youth.

c. to e. No change.

f. ~~Kids Count!~~ *Research Matters Award.* This award recognizes outstanding library, archives, historic site and museum service provided to National History Day student researchers in Iowa during the previous program year. The board may ~~give~~ award up to two certificates of merit and one certificate of achievement annually.

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g. Preservation Projects of Merit Award. This award recognizes historic preservation projects that exemplify the best of preservation practices, meet the U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Buildings, and utilize the state historic preservation ~~and cultural and entertainment district~~ tax credit program. The board may give one award annually in each of the following four categories.

(1) Judith A. McClure Award. This award recognizes outstanding preservation of a residential property using state historic preservation ~~and cultural and entertainment district~~ tax credit program incentives. For purposes of this award, residential property shall be as defined in rule 223—48.2(303,404A).

(2) Adrian D. Anderson Award. This award recognizes outstanding preservation of a small historic preservation project using state historic preservation ~~and cultural and entertainment district~~ tax credit program incentives. For purposes of this award, small projects are defined as those projects having total qualified costs, ~~as determined by Iowa Code chapter 404A as amended by 2007 Iowa Acts, chapter 165,~~ of ~~\$500,000~~ \$750,000 or less.

(3) Margaret Keyes Award. This award recognizes outstanding preservation of a large historic preservation project using state historic preservation ~~and cultural and entertainment district~~ tax credit program incentives. For purposes of this award, large projects are defined as those projects having total qualified costs, ~~as determined by Iowa Code chapter 404A as amended by 2007 Iowa Acts, chapter 165,~~ of more than ~~\$500,000~~ \$750,000.

(4) William J. Wagner Award. This award recognizes the historic preservation project which best exemplified use of the U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Buildings while using state historic preservation ~~and cultural and entertainment district~~ tax credit program incentives.

h. Excellence in Archaeology and Historic Preservation. This award recognizes the best archaeology or historic preservation project at the local or state level. The board may give one award and one certificate of merit annually.

i. Dorothy Schwieder Excellence in Research Award. This award recognizes on a biennial basis the most significant research and contribution to the body of knowledge in Iowa history and is the top research and writing award given by the board during the two-year period.

21.3(3) Selection.

a. Committees. The chairperson of the society board of trustees shall appoint awards committees at the first meeting of the board held in each fiscal year. The nonvoting staff member on each committee shall be appointed by the administrator of the society to coincide with the other committee appointments. The term of office shall be one year.

(1) and (2) No change.

(3) ~~Kids Count!~~ Research Matters Award. Nominations for this category shall be reviewed by an awards committee composed of, at a minimum, three voting members; including at least one member of the society board of trustees and one practicing National History Day teacher. The committee shall also include one staff member of the society serving in a nonvoting capacity.

(4) No change.

(5) Excellence in Archaeology and Historic Preservation Award. Nominations for this category shall be reviewed by an awards committee composed of, at a minimum, three voting members including at least one member of the society board of trustees. The committee shall also include one staff member of the society serving in a nonvoting capacity.

(6) Dorothy Schwieder Excellence in Research Award. Nominations for this category shall be reviewed by an awards committee composed of, at a minimum, three voting members including at least one member of the society board of trustees. The committee shall also include one staff member of the society serving in a nonvoting capacity.

b. Period of eligibility. Awards in the Mildred Throne/Charles Aldrich, George Mills/Louise Noun, Benjamin F. Shambaugh, ~~and Loren Horton,~~ and Excellence in Archaeology and Historic Preservation categories shall be made for activities and publications produced during the calendar year prior to the nomination. Awards in the ~~Kids Count!~~ Research Matters category shall be made for

HISTORICAL DIVISION[223](cont'd)

activities during the most recently completed National History Day competition in Iowa. Awards in the Preservation Projects of Merit category shall be made for state historic preservation ~~and cultural and entertainment district tax credit projects completed~~ with a Part 3 approved in the previous fiscal year.

c. Call for nominations.

(1) ~~William J. Petersen/Edgar Harlan Award, Loren Horton Award, Mildred Throne/Charles Aldrich Award, George Mills/Louise Noun Award, Benjamin F. Shambaugh Award, Excellence in Archaeology and Historic Preservation, and Dorothy Schwieder Excellence in Research Award.~~ The public may nominate entries for the William J. Petersen/Edgar Harlan Award by mail awards. Nominators shall submit the name and address of the nominee and a detailed description of significant long-term or continuing contributions to Iowa history complete and submit respective award paperwork for awards. Nomination forms are available by contacting the State Historical Society of Iowa or electronically on the State Historical Society of Iowa web page: www.iowahistory.org. Nominations for the Shambaugh Award must be postmarked by January 2. All other awards must be postmarked by February 1 and must be submitted to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290. Nominations may also be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web web page: www.iowahistory.org.

~~(2) Loren Horton Award. The public may nominate entries for the Horton Award by mail. Required nomination papers for the Loren Horton Award shall be obtained from the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290. Nominations shall be postmarked by February 1 and shall be returned to the administrator at the society.~~

~~(3) Mildred Throne/Charles Aldrich Award. The public may nominate articles for the Mildred Throne/Charles Aldrich Award by mail. Nominators shall submit the title of the article, name of author, name and address of publication, and year of publication to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290. Nominations may be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web page: www.iowahistory.org.~~

~~(4) George Mills/Louise Noun Award. The public may nominate articles for the George Mills/Louise Noun Award by mail. Nominators shall submit the title of the article, name of author, name and address of publication, and year of publication to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290. Nominations may be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web page: www.iowahistory.org.~~

~~(5) Benjamin F. Shambaugh Award. The public may nominate entries for the Shambaugh Award by mail. Nominators shall submit the title of the book, name and address of author, name and address of publisher, and year of publication to the Editor, The Annals of Iowa, State Historical Society of Iowa, 402 Iowa Avenue, Iowa City, Iowa 52240-1806. Nominations may be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web page: www.iowahistory.org.~~

~~(6) (2) Kids Count! Research Matters Award. National History Day student researchers may nominate research libraries, archives, historic sites and museums on forms provided by the National History Day in Iowa program. Nominations shall include the name of the library, archive, historic site or museum nominated for the award and a description of the services provided by that library, archive, historic site or museum to National History Day student researchers in Iowa. Nominations must be received by the date of the annual state National History Day Contest. Nominations must be submitted to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290. Nominations may also be submitted electronically to the email address posted on the State Historical Society of Iowa web page: www.iowahistory.org.~~

~~(7) (3) Preservation Projects of Merit Award. All historic rehabilitation projects completed with Part 3 approved in the previous fiscal year, as determined by state historic preservation ~~and cultural and entertainment district tax credit~~ program staff, shall be considered for this award.~~

d. to f. No change.

21.3(4) Criteria.

a. to e. No change.

HISTORICAL DIVISION[223](cont'd)

f. ~~Kids Count!~~ Research Matters Award. Each nominated institution shall be evaluated on its commitment to research support for young historical researchers as demonstrated by the institution's positive attitude toward young researchers, its level of research knowledge, and its assistance to individual researchers. These criteria shall be weighted equally.

g. No change.

h. Excellence in Archaeology and Historic Preservation Award. Projects shall be evaluated based on:

(1) Level of effort needed to preserve the resource;
 (2) Historic significance of the resource;
 (3) Application of the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation;

(4) Local impact of the project and benefit to the community;

(5) Potential to replicate the project in another community;

(6) Additional steps taken to share this history with the public;

(7) Application of state or federal preservation laws.

i. Dorothy Schwieder Excellence in Research Award. Each nomination shall be evaluated on its contribution to knowledge about Iowa history, scholarship, readability, and appropriateness for the intended audience. Eligible works include, but are not limited to, articles in popular periodicals or academic journals, books, dissertations, films, National Register of Historic Places nominations, or online projects. Winners of other State Historical Society of Iowa awards—the George Mills/Louis Noun Award, the Mildred Throne/Charles Aldrich Award, or the Benjamin F. Shambaugh Award—are also eligible for this prize. One award will be given biennially.

21.3(5) and **21.3(6)** No change.

ARC 4328C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to subacute mental health care facilities and providing an opportunity for public comment

The Inspections and Appeals Department hereby proposes to amend Chapter 71, "Subacute Mental Health Care Facilities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135G.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 135G and 2018 Iowa Acts, House File 2456.

Purpose and Summary

Iowa Code chapter 135G regarding subacute mental health care facilities provides for the establishment of basic standards for the operation of these facilities to ensure the safe and adequate diagnosis, evaluation and treatment of persons with serious and persistent mental illness so that these persons are able to experience recovery and live successfully in the community. Since the adoption of the rules implementing Iowa Code chapter 135G, the Department has received questions from subacute mental health care facility licensees seeking clarification of certain rules. The proposed amendments add definitions, require documentation of background checks for personnel, clarify the time within which a treatment plan must be developed, provide further direction regarding the use of a seclusion

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room or restraints, clarify provisions related to medication management, add requirements related to nutrition and food preparation, and add requirements related to buildings, furnishings and equipment.

In addition, the amendments implement the changes made to Iowa Code chapter 135G resulting from 2018 Iowa Acts, House File 2456, which eliminated certain requirements for licensure by the Department, including the limit on the number of publicly funded subacute care facility beds licensed under Iowa Code chapter 135G.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 2, 2019. Comments should be directed to:

Deborah Svec-Carstens
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0083
Email: deborah.svec-carstens@dia.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definitions of “Psychiatric care,” “Recovery” and “Recovery principles” in rule **481—71.2(135G)**:

“*Psychiatric care*” means the provision of care to patients in a psychiatric unit of an acute care hospital; a freestanding psychiatric hospital; or a mental health clinic.

“*Recovery*” means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

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“*Recovery principles*” means the ten guiding principles of recovery outlined by the federal Substance Abuse and Mental Health Services Administration (www.samhsa.gov): hope, person-driven, many pathways, holistic, peer support, relational, culture, addresses trauma, strengths/responsibility, and respect.

ITEM 2. Amend paragraph **71.3(1)“e”** as follows:

e. Show evidence of a certificate signed by the state fire marshal or deputy state fire marshal, or the designee of either, certifying compliance with fire safety rules.

ITEM 3. Amend paragraph **71.3(3)“c”** as follows:

c. Have an approved, current certificate signed by the state fire marshal or deputy state fire marshal, or the designee of either, certifying compliance with fire safety rules and regulations; and

ITEM 4. Rescind subrules **71.3(5)** and **71.3(6)**.

ITEM 5. Renumber subrule **71.3(7)** as **71.3(5)**.

ITEM 6. Amend paragraph **71.8(3)“e”** as follows:

e. When a defect or failure occurs in the fire sprinkler system for more than 10 hours or fire alarm system for more than 4 hours in a 24-hour period. (This reporting requirement is in addition to the requirement to notify the state fire marshal or the state fire marshal’s designee.)

ITEM 7. Amend paragraph **71.10(2)“a”** as follows:

a. Be a mental health professional, as defined in Iowa Code section ~~228.1(6)~~ 228.1(7), with at least one year of experience in an administrative capacity; or

ITEM 8. Amend paragraph **71.12(2)“c”** as follows:

c. A mental health professional as defined in Iowa Code section ~~228.1(6)~~ 228.1(7);

ITEM 9. Amend paragraph **71.12(2)“d”** as follows:

d. Direct care staff with at least ~~three years~~ one year of experience in a mental health care setting; and

ITEM 10. Amend paragraph **71.12(3)“c”** as follows:

c. Personnel records which are current, accurate, complete, and confidential to the extent allowed by law.

(1) The record shall contain documentation of how the employee’s or consultant’s education and experience are relevant to the position for which the employee or consultant was hired.

(2) The record shall contain documentation of criminal history, child abuse and dependent adult abuse record checks, which shall be conducted prior to employment.

ITEM 11. Amend subrule 71.12(4), introductory paragraph, as follows:

71.12(4) The facility shall require regular health examinations for all personnel. Employees shall have a health examination within 12 months prior to beginning employment and regular examinations thereafter at least every four years. The examination shall include, at a minimum, the health status of the employee, including screening and testing for tuberculosis as described in 481—Chapter 59.

ITEM 12. Amend paragraph **71.12(5)“b”** as follows:

b. The record shall include the employee’s:

- (1) Name and address,
- (2) Social security number,
- (3) Date of birth,
- (4) Date of employment,
- (5) References,
- (6) Position in the facility,
- (7) Job description,
- (8) Documentation of experience and education,
- (9) Criminal history, child abuse and dependent adult abuse background checks,
- (9) (10) Staff development plan training records,

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

- ~~(10)~~ (11) Annual performance evaluation,
- ~~(11)~~ (12) Documentation of disciplinary action,
- ~~(12)~~ (13) Date and reason for discharge or resignation,
- ~~(13)~~ (14) Current physical examination.

ITEM 13. Adopt the following new subrule 71.12(6):

71.12(6) Orders for medications and treatments shall be correctly implemented by qualified personnel.

ITEM 14. Amend paragraph **71.13(2)“a”** as follows:

a. Eligibility for individualized subacute mental health services will be determined by the standardized preadmission screening utilized by the facility, ~~which~~. The screening shall be conducted by a mental health professional, as defined in Iowa Code section ~~228.1(6)~~ 228.1(7), a physician, a physician assistant, or an advanced registered nurse practitioner.

ITEM 15. Amend paragraph **71.13(7)“c”** as follows:

c. The facility shall make advance notification to the receiving facility prior to the transfer of any resident if the resident is to be transferred to another facility.

(1) Notification shall be made no less than 24 hours prior to transfer unless paragraph 71.13(6) “d” applies.

(2) Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being transferred.

ITEM 16. Amend paragraph **71.13(7)“d”** as follows:

d. The appropriate record as set forth in subrule ~~71.18(1)~~ 71.20(1) shall accompany the resident when the resident is transferred or discharged.

ITEM 17. Amend subrule 71.14(1) as follows:

71.14(1) A treatment plan must be developed with each resident. The plan must be based on initial and ongoing assessment of need, be designed to resolve the acute or crisis mental health symptoms or the imminent risk of acute or crisis mental health symptoms, and be completed within six hours of admission, or no later than 12 noon following admission if the resident is admitted between 8 p.m. and 6 a.m.

ITEM 18. Amend rule 481—71.16(135G) as follows:

481—71.16(135G) Seclusion and restraint.

71.16(1) Use of a seclusion room. Pursuant to Iowa Code section 135G.3(2), a ~~subacute care facility utilizing a seclusion room used by a subacute care facility~~ must meet the conditions of 42 CFR § 483.364(b). Use of the seclusion room shall be approved by a licensed psychiatrist or by order of the resident’s physician, a physician assistant, or an advanced registered nurse practitioner.

a. A subacute care facility utilizing a seclusion room shall have written policies regarding its use. The policy shall:

- (1) Specify the types of behavior that may result in seclusion room placement.
- (2) Delineate the licensed personnel who may authorize use of the seclusion room.
- (3) Require documentation of the time in the seclusion room, the reasons for use of the seclusion room, and the reasons for any extension of time beyond one hour. Under no circumstances shall the use of the seclusion room exceed four hours.

(4) Require notice to residents of the types of behavior that may result in seclusion room placement.

b. A staff member shall always be in hearing distance of the seclusion room, and the resident shall be visually checked by the staff at least every 15 minutes. Every check shall be documented in writing.

c. A seclusion room shall not be used for punishment, for the convenience of staff, or as a substitution for supervision. A seclusion room shall only be used when a less restrictive alternative has failed and:

- (1) In an emergency to prevent injury to the resident or to others; or
- (2) For crisis intervention.

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71.16(2) *Use of restraints.* There shall be written policies that define the use of restraint, designate the staff member who may authorize its use, and establish a mechanism for monitoring and controlling its use.

~~71.16(3)~~ *a.* Restraint shall not be used for punishment, for the convenience of staff, or as a substitution for supervision. Restraint shall only be used:

~~a.~~ (1) In an emergency to prevent injury to the resident or to others; or

~~b.~~ (2) For crisis intervention.

~~71.16(4)~~ *b.* Restraint must not result in harm or injury to the resident and must be used only to ensure the safety of the resident or others during an emergency situation until the emergency situation has ceased, even if the restraint order has not expired.

~~71.16(5)~~ *c.* The use of restraint should be selected only when other less restrictive measures have been found to be ineffective to protect the resident or others. The staff shall demonstrate effective treatment approaches and alternatives to the use of restraint.

~~71.16(6)~~ *Standing or as-needed orders for restraint are prohibited.*

~~71.16(7)~~ *d.* Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident.

~~71.16(8)~~ *e.* Staff trained in the use of emergency safety interventions must be physically present and continually assessing and monitoring the well-being of the resident and the safe use of restraint throughout the duration of the emergency situation.

~~71.16(9)~~ ~~71.16(3)~~ *Orders for restraint or seclusion.* An order for restraint or seclusion shall not be written as a standing order or on an as-needed basis.

a. Each order for restraint or seclusion shall include:

(1) The name of the ordering physician, physician assistant or advanced registered nurse practitioner.

(2) The date and time the order is obtained.

(3) The emergency safety intervention ordered, including the length of time for which restraint or seclusion is authorized.

b. Orders for restraint or seclusion must be by a physician or other licensed practitioner permitted by law to order restraint or seclusion, physician assistant or advanced nurse practitioner.

~~a.~~ (1) Verbal orders must be received while the emergency safety intervention is being initiated by staff or immediately after the emergency safety situation ends and must be verified in writing in the resident's record by the physician or other licensed practitioner permitted by law to order restraint or seclusion, physician assistant or advanced registered nurse practitioner.

~~b.~~ (2) Once the one-time order for the specific resident in an emergency safety situation has expired, it may not be renewed on a planned, anticipated, or as-needed basis.

~~71.16(4)~~ *Simultaneous use prohibited.* Restraint and seclusion shall not be used simultaneously.

~~71.16(10)~~ ~~71.16(5)~~ *Documentation of use of restraint or seclusion.* Staff must document in the resident's record and in a centralized tracking system any use of restraint or seclusion.

a. Documentation must be completed by the end of the shift in which the intervention occurs or during the shift in which it ends.

b. Documentation shall include:

(1) The order for restraint or seclusion.

(2) The time the emergency safety intervention began and ended.

(3) The emergency safety situation that required restraint or seclusion.

(4) The name of staff involved in the emergency safety intervention.

(5) The interventions used and their outcomes.

(6) The signature of the physician, physician assistant or advanced nurse practitioner.

~~71.16(11)~~ ~~71.16(6)~~ *Meeting to process restraint or seclusion.* As soon as reasonably possible after the restraint or seclusion of a resident has terminated, staff must meet to process the restraint or seclusion occurrence and document in writing the meeting.

~~71.16(12)~~ ~~71.16(7)~~ *Multiple occasions of restraint or seclusion.* A resident who requires restraint or seclusion on multiple occasions should be considered for a higher level of care.

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71.16(13) 71.16(8) Staff training. The facility shall provide to the staff training by qualified professionals on physical restraint and seclusion theory and techniques.

a. The facility shall keep a record of the training, including attendance, for review by the department.

b. Only staff who have documented training in physical restraint and seclusion theory and techniques shall be authorized to assist with the seclusion or physical restraint of a resident.

ITEM 19. Amend subrule 71.17(1) as follows:

71.17(1) Medications must be ordered by qualified prescribers and administered by qualified personnel. For purposes of this subrule, “qualified personnel” means, at a minimum, a certified medication aide.

ITEM 20. Amend subrule 71.17(7) as follows:

71.17(7) Whenever a resident brings the resident’s own prescribed medications into the facility, such medications must not be administered unless identified by a qualified prescriber or pharmacist and ordered by a qualified prescriber. If such medications cannot be administered, they must be packaged, sealed, and returned to an adult member of the resident’s immediate family or the legal guardian or securely stored and returned to the resident upon discharge. However, if previously prescribed medication would prove harmful to the resident, the medication may be withheld from the resident and disposed of in accordance with subrule 71.17(6). There must be documentation by the qualified prescriber in the resident’s clinical record citing the dangers or contraindications of the medication being withheld.

ITEM 21. Renumber rules **481—71.18(135G)** to **481—71.20(135G)** as **481—71.20(135G)** to **481—71.22(135G)**.

ITEM 22. Adopt the following new rule 481—71.18(135G):

481—71.18(135G) Dietary.

71.18(1) Nutrition and menu planning.

a. Menus shall be planned and followed to meet the nutritional needs of residents.

b. Menus shall be planned and served to include foods and amounts necessary to meet federal dietary guidelines.

c. At least three meals or their equivalent shall be served daily, at regular hours.

71.18(2) Dietary storage, food preparation, and service. All food shall be handled, prepared, served and stored in compliance with the Food Code adopted pursuant to Iowa Code section 137F.2.

ITEM 23. Adopt the following new rule 481—71.19(135G):

481—71.19(135G) Buildings, furnishings, and equipment.

71.19(1) Buildings—general requirements.

a. All windows shall be supplied with window treatments that are kept clean and in good repair.

b. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously.

c. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state fire code.

71.19(2) Furnishings and equipment.

a. All furnishings and equipment shall be durable, cleanable, and appropriate to their function.

b. Upholstery materials shall be moisture- and soil-resistant as needed, except on furniture provided by the resident and the property of the resident.

71.19(3) Dining area and common area. Every facility shall have a dining area and a common area easily accessible to all residents.

a. A common area shall be maintained for the use of residents and their visitors and may be used for recreational activities. Common areas shall be suitably furnished.

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

b. Dining areas shall be furnished with dining tables and chairs appropriate to the size and function of the facility. Dining areas and furnishings shall be kept clean and sanitary.

71.19(4) Bedrooms.

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable.

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size.

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions.

d. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident's personal wishes shall be considered.

e. There shall be drawer space for each resident's clothing. In a bedroom in which more than one resident resides, drawer space shall be assigned to each resident.

f. Beds and other furnishings shall not obstruct free passage to and through doorways.

g. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless the radiator is covered so as to protect the resident from contact with it or from excessive heat.

h. There shall be no more than two residents per room.

71.19(5) Bath and toilet facilities.

a. There shall be a minimum of one toilet and one sink for each four residents and one shower for each eight residents. For example, a facility with the maximum of 16 beds shall have four toilets and sinks and two showers.

b. All sinks shall have paper towel dispensers and an available supply of soap.

c. Toilet paper shall be readily available to residents.

71.19(6) Heating. A centralized heating system shall be maintained in good working order and capable of maintaining a comfortable temperature for residents of the facility. Portable units or space heaters are prohibited from being used in the facility except in an emergency.

71.19(7) Water supply.

a. Private sources of water supply shall be tested annually and the report made available for review by the department upon request.

b. A bacterially unsafe source of water supply shall be grounds for denial, suspension, or revocation of license.

c. The department may require testing of private sources of water supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department.

d. Hot and cold running water under pressure shall be available in the facility.

e. Prior to construction of a new facility or new water source, private sources of water supply shall be surveyed and shall comply with the requirements of the department.

ITEM 24. Amend renumbered subrule 71.22(1) as follows:

71.22(1) Emergency care. Each facility shall have written policies and procedures for emergency medical and psychiatric ~~care~~ treatment, which shall include immediate notification by the person in charge to the physician, physician assistant, advanced registered nurse practitioner or mental health professional of any accident, injury or adverse change in the resident's condition. "Immediate" for purposes of this subrule means within 24 hours.

ITEM 25. Amend renumbered subrule 71.22(4) as follows:

71.22(4) Safe environment. The licensee of a subacute care facility is responsible for the provision and maintenance of a safe environment for residents and personnel. The subacute care facility shall meet the fire and safety rules as promulgated by the state fire marshal or the state fire marshal's designee.

ARC 4326C**INSURANCE DIVISION[191]****Notice of Intended Action****Proposing rule making related to unfair trade practices
and providing an opportunity for public comment**

The Insurance Division hereby proposes to amend Chapter 15, “Unfair Trade Practices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 507B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 507B.

Purpose and Summary

This proposed rule making is intended to implement a model regulation adopted by the National Association of Insurance Commissioners.

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 Division’s general waiver provisions of 191—Chapter 4 apply to these rules.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on April 2, 2019. Comments should be directed to:

Ann Outka
Insurance Division
Two Ruan Center
601 Locust Street, Fourth Floor
Des Moines, Iowa 50309
Fax: 515.281.3059
Email: ann.outka@iid.iowa.gov

Public Hearing

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

April 2, 2019
11 a.m. to 12 noon

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

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Persons attending the public hearing will be asked to provide their names; persons may submit written comments; if persons wish to make oral comments in person or by telephone, they will be asked to state their names and who they represent for the record and to confine any 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 Division 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 **15.66(6)“h”** as follows:

h. ~~The~~ Except as provided by paragraph 15.66(6)“v,” nonguaranteed elements underlying the nonguaranteed illustrated values shall be no more favorable than current nonguaranteed elements and shall not include any assumed future improvement of such elements. Additionally, nonguaranteed elements used in calculating nonguaranteed illustrated values at any future duration shall reflect any planned changes, including any planned changes that may occur after expiration of an initial guaranteed or bonus period;

ITEM 2. Amend paragraphs **15.66(6)“t”** and **“u”** as follows:

t. Annuitization benefits shall be based on contract values that reflect surrender charges or any other adjustments, if applicable; ~~and~~

u. Illustrations shall show both annuity income rates per \$1000.00 and the dollar amounts of the periodic income payable; ~~and~~

ITEM 3. Adopt the following new paragraph **15.66(6)“v”**:

v. For participating immediate and deferred income annuities:

(1) Illustrations shall not assume any future improvement in the applicable dividend scale (or scales, if more than one dividend scale applies, such as for a flexible premium annuity);

(2) Illustrations shall reflect the equitable apportionment of dividends, whether performance meets, exceeds or falls short of expectations;

(3) If the dividend scale is based on a portfolio rate method, the portfolio rate underlying the illustrated dividend scale shall not be assumed to increase;

(4) If the dividend scale is based on an investment cohort method, the illustrated dividend scale shall assume that reinvestment rates grade to long-term interest rates, subject to the following conditions:

1. Any assumptions as to future investment performance in the dividend formula shall be consistent with assumptions that are reflected in the marketplace within the normal range of analyst forecasts and investor behavior. These assumptions shall not be changed arbitrarily, notwithstanding changes in markets or economic conditions, and shall be consistent with assumptions that the insurer uses with respect to other lines of business.

2. The illustrated dividend scale shall assume that reinvestment rates grade to long-term interest rates, based on the rates of U.S. Treasury bonds (U.S. Treasury rates). For the purposes of this grading, the assumed long-term rates shall not exceed the rates calculated using the formula in numbered paragraph 15.66(6)“v”(4)“3” based on the time to maturity or reinvestment (the “tenor”) of the investments supporting the cohort of policies.

3. Maximum long-term interest rates shall be calculated for tenors of 3 months or less, 5 years, 10 years, and 20 years or more, using U.S. Treasury rates. For each tenor, the maximum long-term interest rate shall vary over time, based on historical interest rates as they emerge. The formula for the maximum long-term interest rate is the average of the median U.S. Treasury rate during the last 600 months and

INSURANCE DIVISION[191](cont'd)

the average U.S. Treasury rate during the last 120 months, rounded to the nearest quarter of one percent (0.25%).

4. The maximum long-term interest rate for a tenor shall be recalculated once per year, in January, using historical interest rates as of December 31 of the calendar year two years prior to the calendar year of the calculation date. The historical interest rate for each month is the interest rate reported for the last business day of the month.

5. Grading to the maximum long-term interest rates shall take place during:

- No less than 20 years from the issue date if U.S. Treasury rates as of the illustration date are below the long-term interest rates; or
- No more than 20 years from the issue date if the U.S. Treasury rates as of the illustration date are above the long-term interest rates.

6. When the ten-year U.S. Treasury rate is less than the ten-year maximum long-term interest rate, an additional illustrated dividend scale shall be presented. This additional illustrated dividend scale shall satisfy the following conditions:

- Assume that reinvestment U.S. Treasury rates do not exceed the initial investment U.S. Treasury rates, and
- Illustrate dividends of no less than half of the dividends illustrated under the current dividend scales.

If the conditions under the two prior bulleted paragraphs are in conflict (i.e., if half of the current dividends are greater than would be permitted by the condition under the first bulleted paragraph above), then the reinvestment U.S. Treasury rates shall equal the initial investment U.S. Treasury rates.

7. The illustration shall include a disclosure that is substantially similar to the following:

The illustrated current dividend scale is based on interest rates that are assumed to gradually [increase/decrease] from current interest rates to long-term interest rates during a period of [20] years. As required by state regulations, the long-term assumed interest rates cannot and do not exceed the rates listed in column (c) of the table below.

[Insert table from paragraph 15.66(6) “v”(4)“9”]

8. If the illustration contains an additional dividend scale pursuant to numbered paragraph 15.66(6) “v”(4)“6,” then the illustration also shall include a disclosure that is substantially similar to the following:

The additional illustrated dividend scale is based on interest rates that are assumed not to increase and that do not exceed the interest rates in column (b) of the table below.

[Insert table from paragraph 15.66(6) “v”(4)“9”]

9. The following table shall be used in the disclosures as indicated in numbered paragraphs 15.66(6) “v”(4)“7” and “8”:

(a)	(b)	(c)
	U.S. Treasury Rate as of 12/31/2016	Long-Term U.S. Treasury Rate
3 Months or Less	0.51%	3.00%
5 Years	1.93%	4.50%
10 Years	2.45%	5.00%
20 Years or More	3.06%	5.50%

ARC 4327C

MANAGEMENT DEPARTMENT[541]**Notice of Intended Action****Proposing rule making related to calculating net general fund revenues and providing an opportunity for public comment**

The Management Department hereby proposes to adopt new Chapter 15, “Calculating Net General Fund Revenues,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 8.6 and 2018 Iowa Acts, chapter 1161, section 133.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2018 Iowa Acts, chapter 1161, section 133.

Purpose and Summary

The proposed rule making will establish procedures to calculate net General Fund revenues and will define “total appropriated general fund revenues,” “transfers from reserved funds,” “tax and other refunds,” and “school infrastructure transfers,” including the types and categories of receipts that will be included within each definition and in the calculation of net General Fund revenues.

The Director of the Department approved this Notice of Intended Action on February 8, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).

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 April 2, 2019. Comments should be directed to:

Joel Lunde
Iowa Department of Management
State Capitol, Room 13
1007 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.281.3322
Fax: 515.242.5897
Email: joel.lunde@iowa.gov

MANAGEMENT DEPARTMENT[541](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** 541—Chapter 15:

CHAPTER 15
CALCULATING NET GENERAL FUND REVENUES

541—15.1(87GA,ch1161) Calculation of net general fund revenues.

15.1(1) Definitions. For purposes of this rule:

“*Comprehensive annual financial report of the state*” means the report established under Iowa Code section 8A.502(8).

“*Fiscal year*” means the fiscal year of government as established in Iowa Code section 8.36.

“*Revenue estimating conference*” means the conference established in Iowa Code section 8.22A(1).

“*School infrastructure transfers*” means transfers from the general fund of the state to the secure an advanced vision for education fund created under Iowa Code section 423F.2(2) and as determined by the revenue estimating conference.

“*Tax and other refunds*” means tax refunds as determined by the revenue estimating conference under Iowa Code section 8.22A(4).

“*Total appropriated general fund revenues*” means total funds deposited into the general fund of the state as defined in Iowa Code section 444.21 and determined by the revenue estimating conference established in Iowa Code section 8.22A(1).

“*Transfers from reserve funds*” means the transfers established under Iowa Code section 8.55(2) “b” to the general fund from the economic emergency fund established under Iowa Code section 8.55(1).

15.1(2) Calculation of net general fund revenues. Net general fund revenues are calculated for each fiscal year using the total appropriated general fund revenues for each fiscal year, less tax and other refunds and school infrastructure transfers for each fiscal year pursuant to the accounting rules for accruals established under the comprehensive annual financial report of the state.

This rule is intended to implement 2018 Iowa Acts, chapter 1161, section 133.

ARC 4325C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to updates of administrative procedures and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 10, “Administrative Rules,” Chapter 11, “Waiver of Rules,” and Chapter 12, “Declaratory Orders,” Iowa Administrative Code.

TRANSPORTATION DEPARTMENT[761](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.7, 17A.9, 17A.9A and 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.7, 17A.9 and 17A.9A.

Purpose and Summary

The proposed amendments to Chapters 10, 11 and 12 update the office name of the Department's rules administrator and add email as an option for a person wanting to submit a petition for rule making, petition for waiver, or petition for declaratory order to the Department. The proposed amendments to Chapter 10 also modify language in subparagraph 10.2(2)"a"(2) to suggest that persons who have requested an oral presentation provide the Department with the general subject of the presentation.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 2, 2019. Comments should be directed to:

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

Public Hearing

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

April 4, 2019
10 a.m.

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

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

TRANSPORTATION DEPARTMENT[761](cont'd)

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 10.1(2) as follows:

10.1(2) Address. The mailing address of the department's rules administrator is: Rules Administrator, ~~Operations and Finance Division~~ Strategic Communications and Policy, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. The email address of the rules administrator may be found on the department's website at iowadot.gov/administrativerules.

ITEM 2. Amend subparagraph **10.2(2)“a”(2)** as follows:

(2) If an oral presentation is requested, the requester is encouraged to set forth the general content subject of the presentation ~~shall be indicated~~.

ITEM 3. Amend subrule 10.3(1), introductory paragraph, as follows:

10.3(1) The department shall accept and consider, from any person or agency, petitions for rule making when submitted to the department's rules administrator by mail or email and prepared in conformance with the following:

ITEM 4. Amend **761—Chapter 10**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.1 to 17A.9, 17A.19, and 307.12 and ~~section 307A.2 as amended by 2015 Iowa Acts, House File 635, section 20.~~

ITEM 5. Amend subrule 11.5(3) as follows:

11.5(3) Submission of petition. A petition for waiver from the requirements of a rule shall be submitted to the rules administrator either by mail to Rules Administrator, ~~Operations and Finance Division~~ Strategic Communications and Policy, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator's email address listed on the department's website at iowadot.gov/administrativerules.

ITEM 6. Amend subrule 11.8(2) as follows:

11.8(2) The ~~operations and finance division~~ department's rules administrator shall, at a minimum, retain for five years records relating to waivers granted or denied under this chapter.

ITEM 7. Amend subrule 12.2(2) as follows:

12.2(2) The petition must be submitted to the ~~department's~~ rules administrator ~~at the following address:~~ either by mail to Rules Administrator, ~~Operations and Finance Division~~ Strategic Communications and Policy, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator's email address listed on the department's website at iowadot.gov/administrativerules.

ARC 4332C

INSURANCE DIVISION[191]**Adopted and Filed Emergency After Notice****Rule making related to short-term limited-duration health insurance policies**

The Insurance Division hereby amends Chapter 35, “Accident and Health Insurance,” and Chapter 36, “Individual Accident and Health—Minimum Standards and Rate Hearings,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 505 and 514D and 83 FR 38212.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 505 and 514D and 83 FR 38212.

Purpose and Summary

This rule making implements, in whole or in part, a final rule issued by the Internal Revenue Service, Department of the Treasury; the Employee Benefits Security Administration, Department of Labor; and the Centers for Medicare and Medicaid Services, Department of Health and Human Services, found at 83 FR 38212 (new HHS rule).

The new HHS rule extends the permissible policy term periods for short-term limited-duration health insurance policies to up to 12 months (increased from three months). The new federal rule also allows such plans to be renewable for a period of up to three years. Prior to this new HHS rule, these plans were not renewable for periods beyond three months. The new HHS rule was published in the Federal Register on August 3, 2018, and became effective on October 2, 2018.

The amendments adopt a minimum standard of benefits for short-term limited-duration health insurance policies, in response to the new HHS rule, and require certain other consumer protections. These amendments also allow for the Insurance Division’s administration of short-term limited-duration health insurance in response to the new HHS rule.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 16, 2019, as ARC 4242C. A public hearing was held on February 8, 2019, at 11 a.m. at the Division’s offices on the fourth floor of Two Ruan Center, 601 Locust Street, Des Moines, Iowa. Three persons attended the public hearing. Ten public comments were received. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Insurance Division finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on February 20, 2019, because the Insurance Division finds that the availability and affordability of health insurance is critical for the greater public interest and that the necessity of ensuring that short-term limited-duration coverage has appropriate consumer protections requires adoption of these amendments.

Adoption of Rule Making

This rule making was adopted by the Insurance Division on February 20, 2019.

INSURANCE DIVISION[191](cont'd)

Fiscal Impact

This rule making may have some fiscal impact to the State of Iowa, in that an increase in the number of these plans being sold would increase the amount of premium tax funds collected by the State from the issuing companies. While the expected fiscal impact is unknown because the number of plans that will be sold by the issuing companies is unknown, the Insurance Division does not expect a large fiscal impact from the amount of premium tax funds collected.

Jobs Impact

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

Waivers

The Insurance Division's general waiver provisions of 191—Chapter 4 apply to these rules.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making became effective on February 20, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule **191—35.23(509)**, definition of “Creditable coverage,” as follows:

“*Creditable coverage*” means health benefits or coverage provided to an individual under any of the following:

1. to 10. No change.
11. A short-term ~~limited duration~~ limited-duration policy.

ITEM 2. Amend rule **191—35.23(509)**, definition of “Health insurance coverage,” as follows:

“*Health insurance coverage*” or “*Health health insurance plan*” means benefits consisting of health care provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as health care under a hospital or health service policy or certificate, hospital or health service plan contract, or health maintenance organization contract offered by a carrier.

1. No change.
2. “Health insurance coverage” does not include benefits provided under a separate policy as follows:

- Limited scope dental or vision benefits.
 - Benefits for long-term care, nursing home care, home health care, or community-based care.
 - Short-term ~~limited duration~~ limited-duration insurance.
 - Any other similar, limited benefits as provided by rule of the commissioner.
 - Stop loss insurance coverage.
3. No change.
 4. No change.
 5. No change.

ITEM 3. Rescind the definition of “Short-term limited duration insurance” in rule **191—35.23(509)** and adopt the following **new** definition in lieu thereof:

“*Short-term limited-duration insurance*” means health coverage provided pursuant to a contract with an issuer that has an expiration date specified in the contract that is less than 12 months after the original

INSURANCE DIVISION[191](cont'd)

effective date of the contract and, taking into account renewals or extensions, has a duration of no longer than 36 months in total.

ITEM 4. Adopt the following **new** subrule 36.4(17):

36.4(17) “*Short-term limited-duration insurance*” means health coverage provided pursuant to a contract with an issuer that has an expiration date specified in the contract that is less than 12 months after the original effective date of the contract and, taking into account renewals or extensions, has a duration of no longer than 36 months in total.

ITEM 5. Adopt the following **new** subrule 36.6(11):

36.6(11) *Short-term limited-duration insurance coverage*.

a. “Short-term limited-duration insurance coverage” provides coverage up to an aggregate maximum of not less than \$500,000 for each initial or renewal policy term and shall include a minimum of all of the following services subject to the approved policy terms, limitations and exclusions:

(1) Daily hospital room and board expenses subject only to limitations based on average daily cost of the semiprivate room rate in the area where the insured resides;

(2) Miscellaneous hospital services, including emergency room services;

(3) Surgical services;

(4) Anesthesia services;

(5) In-hospital medical services;

(6) Out-of-hospital care consisting of physicians’ services rendered on an ambulatory basis, and through telemedicine by remote diagnosis and treatment of patients by means of telecommunications technology, where coverage is not provided elsewhere in the policy for diagnosis and treatment of sickness or injury, diagnostic X-ray, laboratory services, radiation therapy, and hemodialysis ordered by a physician;

(7) In-hospital registered nurse services;

(8) Convalescent nursing care;

(9) Diagnosis and treatment by a radiologist or physiotherapist;

(10) Rental of special medical equipment, as defined by the insurer in the policy;

(11) Artificial limbs or eyes, casts, splints, trusses or braces;

(12) Treatment for functional nervous disorders, mental and emotional disorders and substance use disorders; and

(13) Out-of-hospital prescription drugs and medications.

b. If the short-term limited-duration insurance coverage establishes a separate out-of-pocket maximum for the prescription drug benefit, the short-term limited-duration insurance coverage shall contain a deductible, coinsurance and copayment out-of-pocket maximum for all benefits for each covered person, excluding prescription drug services, that shall not exceed \$5,000 multiplied by the number of months of coverage and not in excess of \$20,000 for the full policy term of any duration, and the separate prescription drug benefit shall have a deductible, coinsurance and copayment out-of-pocket maximum separate from the other required services that shall not exceed \$2,500 multiplied by the number of months of coverage and not in excess of \$10,000 for the full policy term of any duration.

c. If the short-term limited-duration insurance coverage integrates a prescription drug benefit into the plan design, the deductible, coinsurance and copayment out-of-pocket maximum for each covered person for all medical and prescription drug coverage shall not exceed \$7,500 multiplied by the number of months of coverage and not in excess of \$30,000 for the full policy term of any duration.

d. After 180 days of coverage, short-term limited-duration insurance coverage that has an initial policy term or has been renewed or extended beyond 180 days in duration shall also provide preventative and wellness services subject to deductibles, coinsurance and copayments, including annual routine office visits, immunizations, mammography examinations, prostate-specific antigen blood tests and Papanicolaou tests.

e. Short-term limited-duration insurance shall not contain preexisting condition exclusions that exceed the initial policy term. Any renewable short-term limited-duration insurance shall be guaranteed renewable.

INSURANCE DIVISION[191](cont'd)

- f.* Short-term limited-duration insurance shall have an expiration date specified in the policy.
- g.* All short-term limited-duration policies shall contain the notices required of short-term limited-duration insurance as set forth in the Public Health Service Act, 45 CFR Section 144.103.
- h.* All short-term limited-duration insurance shall contain a free-look period of not less than ten days after the insured receives the policy during which the insured may cancel the insurance. If the insurance is so canceled, all fees and premiums paid shall be promptly refunded and the insurance shall be voided as if the policy had not been issued. Notice of the free-look period shall be prominently displayed on the first page of the policy.
- (1) For the purposes of this paragraph, the policy shall be determined to be received by the insured as follows:
1. Pursuant to Iowa Code section 554D.117 if received electronically; and
 2. Four days after the policy is postmarked for delivery if sent in the mail.
- (2) For the purposes of this paragraph, the insured may cancel the insurance by giving notice to the insurance company, agent, broker or other representative in any manner, including but not limited to via electronic notice or by telephone.
- i.* All applications for short-term limited-duration insurance shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant and identify any preexisting conditions.

ITEM 6. Adopt the following **new** subrule 36.7(13):

36.7(13) Short-term limited-duration insurance coverage.

a. Outline of coverage. An outline of coverage, in the form prescribed below, shall be issued in connection with any short-term limited-duration insurance, as set forth in subrule 36.6(11). This outline of coverage must be provided in addition to the notices required by paragraph 36.6(11)“g.” The items included in the outline of coverage must appear in the sequence prescribed below, and Section A must be in at least 14-point type or, if electronic, of equivalent prominence:

[COMPANY NAME]

SHORT-TERM LIMITED-DURATION INSURANCE COVERAGE
OUTLINE OF COVERAGE

[If coverage begins before January 1, 2019, the following notice shall appear in at least 14-point type or, if electronic, of equivalent prominence:]

A. THIS COVERAGE IS NOT REQUIRED TO COMPLY WITH CERTAIN FEDERAL MARKET REQUIREMENTS FOR HEALTH INSURANCE, PRINCIPALLY THOSE CONTAINED IN THE AFFORDABLE CARE ACT. BE SURE TO CHECK YOUR POLICY CAREFULLY TO MAKE SURE YOU ARE AWARE OF ANY EXCLUSIONS OR LIMITATIONS REGARDING COVERAGE OF PREEXISTING CONDITIONS OR HEALTH BENEFITS (SUCH AS HOSPITALIZATION, EMERGENCY SERVICES, MATERNITY CARE, PREVENTIVE CARE, PRESCRIPTION DRUGS, AND MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES). YOUR POLICY MIGHT ALSO HAVE LIFETIME AND/OR ANNUAL DOLLAR LIMITS ON HEALTH BENEFITS. IF THIS COVERAGE EXPIRES OR YOU LOSE ELIGIBILITY FOR THIS COVERAGE, YOU MIGHT HAVE TO WAIT UNTIL AN OPEN ENROLLMENT PERIOD TO GET OTHER HEALTH INSURANCE COVERAGE. ALSO, THIS COVERAGE IS NOT “MINIMUM ESSENTIAL COVERAGE” FOR ANY MONTH IN 2018. YOU MAY HAVE TO MAKE A PAYMENT WHEN YOU FILE YOUR TAX RETURN UNLESS YOU QUALIFY FOR AN EXEMPTION FROM THE REQUIREMENT THAT YOU HAVE HEALTH COVERAGE FOR THAT MONTH.

[If coverage begins on or after January 1, 2019, the following notice shall appear in at least 14-point type or, if electronic, of equivalent prominence:]

A. THIS COVERAGE IS NOT REQUIRED TO COMPLY WITH CERTAIN FEDERAL MARKET REQUIREMENTS FOR HEALTH INSURANCE, PRINCIPALLY THOSE CONTAINED IN THE AFFORDABLE CARE ACT. BE SURE TO CHECK YOUR POLICY CAREFULLY TO MAKE SURE YOU ARE AWARE OF ANY EXCLUSIONS OR LIMITATIONS REGARDING COVERAGE OF PREEXISTING CONDITIONS OR HEALTH BENEFITS (SUCH AS HOSPITALIZATION,

INSURANCE DIVISION[191](cont'd)

EMERGENCY SERVICES, MATERNITY CARE, PREVENTIVE CARE, PRESCRIPTION DRUGS, AND MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES). YOUR POLICY MIGHT ALSO HAVE LIFETIME AND/OR ANNUAL DOLLAR LIMITS ON HEALTH BENEFITS. IF THIS COVERAGE EXPIRES OR YOU LOSE ELIGIBILITY FOR THIS COVERAGE, YOU MIGHT HAVE TO WAIT UNTIL AN OPEN ENROLLMENT PERIOD TO GET OTHER HEALTH INSURANCE COVERAGE.

B. This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract, and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY.

C. [A brief specific description of the benefits, including dollar amounts, contained in this policy. The description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or copayment or other out-of-pocket cost provisions applicable to the benefits described. The description of benefits shall also clearly state any applicable provider network requirements including but not limited to distinctions in cost provisions for in-network and out-of-network providers.]

D. [A description of any other policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in Section C, above, including but not limited to any preexisting condition exclusions for policies.]

E. [A description of policy provisions regarding renewability or continuation of coverage, including any reservation of right to change premiums.]

b. Application for coverage for short-term limited-duration insurance. All applications for short-term limited-duration policies shall contain the notice prescribed below, which shall be in at least 14-point type or, if electronic, of equivalent prominence. One signed copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer.

STATEMENT TO APPLICANT BY ISSUER [PRODUCER, BROKER OR OTHER REPRESENTATIVE]:

Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under this policy. This could result in a denial or delay of payment of benefits. If you wish to purchase a short-term limited-duration policy, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

ALSO NOTE THAT, IF THIS COVERAGE EXPIRES OR YOU LOSE ELIGIBILITY FOR THIS COVERAGE, YOU MIGHT HAVE TO WAIT UNTIL AN OPEN ENROLLMENT PERIOD TO GET OTHER HEALTH INSURANCE COVERAGE.

(Signature of Producer, Broker or Other Representative of the Company)
[Typed Name and Address of Producer, Broker or Other Representative]

The above "Statement to Applicant" was delivered to me on:

INSURANCE DIVISION[191](cont'd)

(Date)

(Applicant's Signature)

[Filed Emergency After Notice 2/20/19, effective 2/20/19]

[Published 3/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4333C

ARTS DIVISION[222]**Adopted and Filed****Rule making related to fine arts programs**

The Arts Division hereby rescinds Chapter 12, “Artsafe Program,” and Chapter 13, “Art in State Buildings Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 303.1A.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2017 Iowa Acts, Senate File 516.

Purpose and Summary

This rule making rescinds the Artsafe program, which implemented Iowa Code sections 304A.21 to 304A.29 authorizing the Arts Division to provide State of Iowa indemnification to eligible nonprofit Iowa organizations against loss or damage during the exchange, transportation, or exhibition of eligible art and artifacts. The amendments also rescind the Art in State Buildings program, which implemented Iowa Code sections 304A.8 to 304A.14 requiring state agencies and departments to reserve one-half of 1 percent of the total cost of state construction projects for the acquisition of fine arts in state buildings.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 2, 2019, as **ARC 4197C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Director of the Department of Cultural Affairs on February 6, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. It removes rules for programs that no longer exist.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

ARTS DIVISION[222](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 17, 2019.

The following rule-making actions are adopted:

ITEM 1. Rescind and reserve **222—Chapter 12**.

ITEM 2. Rescind and reserve **222—Chapter 13**.

[Filed 2/12/19, effective 4/17/19]

[Published 3/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4334C

CITY FINANCE COMMITTEE[545]

Adopted and Filed

Rule making related to fund transfers

The City Finance Committee hereby amends Chapter 2, "Budget Amendments and Fund Transfers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 384.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 384.6.

Purpose and Summary

These amendments clarify the meaning of "transfers between funds" by adding definitions of "fund transfer resolution" and "intrafund transfer" and require all transfers of moneys between city funds to be approved by a fund transfer resolution.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 16, 2019, as **ARC 4234C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Committee on February 20, 2019.

Fiscal Impact

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

Jobs Impact

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

CITY FINANCE COMMITTEE[545](cont'd)

Waivers

The Committee does not intend to grant waivers to these rules.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 17, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 545—2.1(384,388) as follows:

545—2.1(384,388) Definitions. The following terms when used in the rules of this part have the following meanings:

“*Act*” means the home rule Act, Acts of the Sixty-fourth General Assembly, chapter 1088, as amended.

“*Budget amendment*” means any change in the appropriations of a city's budget after the budget has been finally adopted, and that requires preparation and adoption as provided in Iowa Code section 384.16 and subject to protest in Iowa Code section 384.19.

If in these rules the committee has provided that amendments of certain types or up to certain amounts do not require preparation and adoption as provided in Iowa Code section 384.15 and are not subject to protest as provided in Iowa Code section 384.19, then these types of amendments are not considered to be budget amendments.

“*Budget appropriation*” means the allocation of the total appropriation to each program for the following fiscal year, as provided for by a city's budget as finally adopted. All appropriations shall be allocated to one or more of the nine programs as defined in this rule.

Any expenditure authorized in Iowa Code sections 384.23 to 384.94 shall be deemed appropriated.

“*Detailed budget*” shall mean documenting revenues and transfer in by sources and funds, and documenting expenditures and transfers out by funds, functions and objects.

“*Fund*” means a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions or limitations.

“*Fund transfer resolution*” means a resolution of the city council which must be passed to allow for transfers between funds. A fund transfer resolution must be completed for all transfers between funds and must include a clear statement of reason or purpose for the transfer, the name of the fund from which the transfer is originating, the name of the fund into which the transfer is to be received, and the dollar amount to be transferred. For transfers of utility surpluses outlined in subrule 2.5(5), the calculation proving the surplus must also be shown in the resolution. Intrafund transfers do not require a fund transfer resolution. Multiple transfers between funds may be approved in one resolution, so long as each transfer's purpose, originating fund or subfund, and receiving fund or subfund, and the amount of transferred dollars are separately identified. Fund transfer resolutions may also be included in budget or budget amendment adoption resolutions, so long as each transfer's purpose, originating fund or subfund and receiving fund or subfund, and the amount of transferred dollars are separately identified.

“*Intrafund transfer*” means a transfer between accounts or subfunds within a fund.

“*Program*” means any one of the following nine major functions of public service that the city finance committee requires ~~cities~~ a city to use in defining ~~its~~ the city's program structure:

CITY FINANCE COMMITTEE[545](cont'd)

1. Public safety;
2. Public works;
3. Health and social services;
4. Culture and recreation;
5. Community and economic development;
6. General government;
7. Debt service;
8. Capital projects;
9. Business-type activities.

“*Transfers between funds*” means the transfer of amounts from one fund to another fund.

ITEM 2. Amend subrule 2.5(1) as follows:

2.5(1) *General provision provisions.* All transfers of moneys between funds found in the city budget forms must be approved by a fund transfer resolution. Transfers between funds in one program are types of amendments that do not require preparation and adoption as provided in Iowa Code section 384.16 and are not subject to protest as provided in Iowa Code section 384.19, but such transfers must comply with the state laws regarding the funds and the following subrules:

[Filed 2/20/19, effective 4/17/19]

[Published 3/13/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4335C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to air quality

The Environmental Protection Commission hereby amends Chapter 20, “Scope of Title—Definitions,” Chapter 22, “Controlling Pollution,” Chapter 23, “Emission Standards for Contaminants,” and Chapter 25, “Measurement of Emissions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.133.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 455B.133.

Purpose and Summary

The purposes of this rule making are to:

1. Reduce the cost of government while providing streamlined services to the public and regulated community.
2. Update rules to provide regulatory certainty and flexibility. The amendments implement a portion of the Department of Natural Resources’ (Department’s) five-year review of rules plan to accomplish the requirements of Iowa Code section 17A.7(2).
3. Offer uniform rules by making changes that match federal regulations and eliminate inconsistencies between federal regulations and state administrative rules. By adopting federal updates into state administrative rules, the Commission is ensuring that Iowa’s air quality rules are no more stringent than federal regulations. Additionally, the updates allow the Department, rather than the U.S. Environmental Protection Agency (EPA), to be the primary agency to implement the air quality requirements in Iowa, thereby allowing the Department to provide compliance assistance and outreach to affected facilities.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Items 1 and 6 amend the definition of “EPA reference method” to adopt the technical corrections that EPA made to continuous methods for measuring air pollutant emissions. The corrections were published on August 7, 2017, in the Federal Register and codified in 40 Code of Federal Regulations (CFR) Part 60, Appendix B. **Item 15** also adopts these federal updates into the methods and procedures established in Chapter 25 for continuous monitoring systems. Adopting EPA’s updates ensures that state reference methods match current federal reference methods and are no more stringent than the federal methods.

Item 2 adds a cross reference to the rules for nonattainment areas specified in Chapter 31 of the Commission’s rules.

Items 3, 4, 5, 7, 9, 10 and 11 update the location and mailing address for the Department’s Air Quality Bureau.

Item 8 establishes electronic submittal of the annual emissions inventories required under the Title V operating permit program. To simplify the reporting requirements for industry, increase reporting efficiency and reduce cost to the state, the Commission is requiring the use of electronic reporting for all Title V facilities, beginning with reports due to the Department by March 31, 2019.

Facilities required to obtain Title V permits are required to annually report their actual air pollution emissions. “Title V facilities” are those that are permitted to emit over 100 tons of air pollution annually (or significant levels of specified hazardous air pollutants). There are currently 289 Title V facilities in Iowa, including electric generating utilities, grain-processing facilities, manufacturing plants, and others.

The Department has since 2002 offered an electronic submission system for reporting air pollution emissions. In 2015, SLEIS (the State and Local Emissions Inventory System) was introduced, offering a significantly more streamlined method for reporting. This year, 82 percent of Title V facilities submitted their inventories on SLEIS, the current e-submittal system for emissions inventories. Annually, the Department provides in-person emissions inventory and SLEIS user training at several locations in the state. Online training tutorials also are available on demand on the Department’s website.

Item 12 amends subrule 23.1(2) to adopt by reference new and revised New Source Performance Standards (NSPS).

The Commission adopts the federal NSPS for sewage sludge incineration (SSI) units. The federal regulation was published in the Federal Register on March 21, 2011, and applies to SSI units for which construction or reconstruction commenced after October 14, 2010, or for which modification commenced after September 21, 2011. Since its publication, the SSI NSPS has been subject to reconsideration petitions and litigation. The Commission adopts these federal amendments because EPA’s reconsiderations and the litigation of the federal standards have recently been resolved.

At this time, no facilities in Iowa are affected by this NSPS. A facility that constructs a new SSI unit, or an existing facility that modifies its SSI unit, could become subject to this NSPS in the future. (See Item 14 for a related amendment.)

The amendment in Item 12 also adopts the changes EPA made to the NSPS test methods, as explained in the description above for Items 1, 6 and 15. The amendments to the NSPS are adopted by reference through revision of the adoption date specified in the introductory paragraph of subrule 23.1(2).

Item 13 amends subrule 23.1(4) to adopt federal amendments to the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for source categories, as described below. The federal amendments are adopted by reference through revision of the adoption date specified in the introductory paragraph of subrule 23.1(4). The text in parentheses in each section heading below indicates the applicable subpart in 40 CFR Part 63 and the corresponding paragraph in subrule 23.1(4).

Phosphoric Acid Manufacturing and Phosphate Fertilizer Production (Subpart AA; paragraph “aa”)

Updates to this NESHAP were published in the Federal Register on September 28, 2017. In response to petitions for reconsideration from stakeholders, EPA extended some compliance dates for affected sources and clarified one option and added a new option for monitoring requirements. At this time, no facilities in Iowa are affected by this NESHAP. New facilities, or existing facilities that change their production lines, could become subject to this NESHAP in the future.

Offsite Waste and Recovery Operations (Subpart DD; paragraph “ad”)

The amendment adopts changes to the standards for offsite waste and recovery operations published in the Federal Register on January 29, 2018. EPA’s final amendments address petitions for reconsideration

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regarding requirements for continuous monitoring of pressure relief devices (PRDs) on containers. EPA's action removes the additional monitoring requirements for PRDs on containers because EPA determined that the requirements were unnecessary. At this time, no facilities in Iowa are affected by this NESHAP. New facilities, or existing facilities that change their production lines, could become subject to this NESHAP in the future.

Chemical Recovery Combustion Sources at Kraft, Soda, Sulfitite, and Stand-Alone Semichemical Pulp Mills (Subpart MM; paragraph "am")

EPA's rule amendments published in the Federal Register on October 11, 2017, include reducing the opacity (visible emissions) monitoring allowance for recovery furnaces and for lime kilns, adding electronic reporting requirements for semiannual compliance reports, updating monitoring and testing requirements, and requiring periodic stack testing and electronic reporting of stack test results. At this time, no facilities in Iowa are affected by this NESHAP. New facilities, or existing facilities that change their production lines, could become subject to this NESHAP in the future.

Portland Cement Manufacturing (Subpart LLL, paragraph "bl")

EPA's amendments to this NESHAP were published in the Federal Register on July 25, 2018, and August 3, 2018, and reflect corrections and clarifications of the rule requirements and provisions. EPA states that the amendments result in improved monitoring, compliance, and implementation of the rule. This NESHAP affects three facilities in Iowa (one facility is currently idled).

Wool Fiberglass Manufacturing (Subpart NNN; paragraph "bn")

Amendments to this NESHAP were published in the Federal Register on December 26, 2017. EPA revised the federal standard to require affected facilities to conduct additional monitoring and record-keeping activities. In addition, affected facilities with flame attenuation lines will need to demonstrate compliance with new emission standards. EPA provided existing affected facilities a three-year period in which to comply with new NESHAP requirements. At this time, no facilities in Iowa are affected by this NESHAP. New facilities, or existing facilities that change their production lines, could become subject to this NESHAP in the future.

Item 14 adopts by reference the federal Emission Guidelines for existing SSI units. EPA's Emission Guidelines provide "model rules" that states may adopt by reference in setting the requirements for existing sources. When a state does not have an approved State Plan by EPA's specified deadline, EPA promulgates a Federal Plan for affected facilities in 40 CFR Part 62 with rules essentially identical to the model rules. EPA's Federal Plan for existing SSI is set forth in 40 CFR Part 62.

Concurrent with the NSPS for SSI units described above in Item 12, EPA published the Emission Guidelines for SSI units in the Federal Register on March 21, 2011. The standards apply to SSI units for which construction or reconstruction commenced on or before October 14, 2010. As with the NSPS, the Emission Guidelines have been subject to reconsideration petitions and litigation since publication. The Commission is adopting the federal regulations for existing SSI units because EPA's reconsiderations and the litigation of the federal standards have recently been resolved. One facility in Iowa is currently affected by these amendments.

As with the NSPS and NESHAP, the Commission adopts EPA's Emission Guidelines by reference so that the requirements are no more or less stringent than federal requirements. In this case, the Commission adopts EPA's Federal Plan for SSI units (rather than the model rules for states) because the one facility affected by the Emission Guidelines is already complying with the Federal Plan, as set forth in 40 CFR Part 62, Subpart LLL. Adoption of the provisions in Subpart LLL will provide regulatory certainty and continuity for the affected facility.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 19, 2018, as **ARC 4178C**. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on January 2, 2019, as **ARC 4221C**. A public hearing was held on January 22, 2019, at 1 p.m. in Conference Room 4 East, Wallace State Office Building, Des Moines, Iowa. One person attended the public hearing but did not provide any comments. The Department received one

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written comment prior to the January 22, 2019, deadline for public comments. The comment provided was outside the scope of the rule making. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on February 19, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. After analysis and review of this rule making, the Commission has determined that most of the changes will have a neutral fiscal impact on affected facilities, the general public, and counties or local governments. The Commission does note that some of the amendments may benefit the private sector because they streamline current air quality programs. Affected businesses and the public benefit from up-to-date air quality requirements and increased effectiveness. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, the Commission has determined that the amendments specified in Items 1 through 11 and Item 15 will have a neutral impact on private sector jobs. The Commission does note that some of the amendments may benefit the private sector because they streamline current air quality programs. For the amendments specified in Items 12, 13 and 14, the Commission has determined that there may be jobs impacts to Iowa businesses. However, the amendments are only implementing federally mandated regulations. The amendments are identical to the federal regulations and would not impose any regulations on Iowa businesses not already required by federal law. In some cases, the revised federal standards being adopted provide more flexibility and potential cost savings for affected businesses, offering a positive impact on private sector jobs. A copy of the complete 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.

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 17, 2019.

The following rule-making actions are adopted:

- ITEM 1. Amend rule **567—20.2(455B)**, definition of “EPA reference method,” as follows:
“EPA reference method” means the following methods used for performance tests and continuous monitoring systems:
1. No change.
 2. Continuous monitoring systems. Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through ~~August 30, 2016~~ August 7, 2017); 40 CFR 60, Appendix F (as

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amended through August 30, 2016); 40 CFR 75, Appendix A (as amended through August 30, 2016); 40 CFR 75, Appendix B (as amended through August 30, 2016); and 40 CFR 75, Appendix F (as amended through August 30, 2016).

ITEM 2. Amend subrule 22.1(1) as follows:

22.1(1) Permit required. Unless exempted in subrule 22.1(2) or to meet the parameters established in paragraph “c” of this subrule, no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit, or permit pursuant to rule 567—22.8(455B), or permits required pursuant to rules 567—22.4(455B), 567—22.5(455B), 567—31.3(455B), and 567—33.3(455B) as required in this subrule. A permit shall be obtained prior to the initiation of construction, installation or alteration of any portion of the stationary source or anaerobic lagoon.

a. and b. No change.

c. New, reconstructed, or modified sources may initiate construction prior to issuance of the construction permit by the department if they meet the eligibility requirements stated in subparagraph (1) below. The applicant must assume any liability for construction conducted on a source before the permit is issued. In no case will the applicant be allowed to hook up the equipment to the exhaust stack or operate the equipment in any way that may emit any pollutant prior to receiving a construction permit.

(1) Eligibility.

1. and 2. No change.

3. The source is not subject to rule 567—22.4(455B), 567—subrule 23.1(2), 567—subrule 23.1(3), 567—subrule 23.1(4), 567—subrule 23.1(5), rule 567—31.3(455B), or paragraph “b” of this subrule. Prevention of significant deterioration (PSD) provisions and prohibitions remain applicable until a proposed project legally obtains PSD synthetic minor status (i.e., obtains permitted limits which limit the source below the PSD thresholds).

(2) to (4) No change.

d. No change.

ITEM 3. Amend subrule 22.1(3), introductory paragraph, as follows:

22.1(3) Construction permits. The owner or operator of a new or modified stationary source shall apply for a construction permit. One copy of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, ~~7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324~~ 502 East 9th Street, Des Moines, Iowa 50319. Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department. An owner or operator applying for a permit as required pursuant to rule 567—31.3(455B) (nonattainment new source review) or 567—33.3(455B) (prevention of significant deterioration (PSD)) shall present or mail to the department one hard copy of a construction permit application to the address specified above and, upon request from the department, shall also submit one electronic copy and one additional hard copy of the application. Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, and hand delivery. Applications are not required to be submitted by certified mail. The owner or operator of any new or modified industrial anaerobic lagoon shall apply for a construction permit as specified in this subrule and as provided in 567—Chapter 22. The owner or operator of a new or modified anaerobic lagoon for an animal feeding operation shall apply for a construction permit as provided in 567—Chapter 65.

ITEM 4. Amend subrule 22.3(8), introductory paragraph, as follows:

22.3(8) Ownership change of permitted equipment. The new owner shall notify the department in writing no later than 30 days after the change in ownership of equipment covered by a construction permit pursuant to rule 567—22.1(455B). The notification to the department shall be mailed to the Air Quality Bureau, Iowa Department of Natural Resources, ~~7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324~~ 502 East 9th Street, Des Moines, Iowa 50319, and shall include the following information:

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ITEM 5. Amend subrule 22.9(3) as follows:

22.9(3) *Duty to self-identify.* The owner or operator or designated representative of a facility meeting the conditions of subrule 22.9(2) shall submit two copies of a completed BART Eligibility Certification Form #542-8125, which shall include all information necessary for the department to complete eligibility determinations. The information submitted shall include source identification, description of processes, potential emissions, emission unit and emission point characteristics, date construction commenced and date of startup, and other information required by the department. The completed form was required to be submitted to the Air Quality Bureau, Department of Natural Resources, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324, by September 1, 2005.

ITEM 6. Amend rule **567—22.100(455B)**, definition of “EPA reference method,” as follows:

“*EPA reference method*” means the following methods used for performance tests and continuous monitoring systems:

1. No change.

2. Continuous monitoring systems. Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through August 30, 2016 August 7, 2017); 40 CFR 60, Appendix F (as amended through August 30, 2016); 40 CFR 75, Appendix A (as amended through August 30, 2016); 40 CFR 75, Appendix B (as amended through August 30, 2016); and 40 CFR 75, Appendix F (as amended through August 30, 2016).

ITEM 7. Amend subrule 22.105(1), introductory paragraph, as follows:

22.105(1) *Duty to apply.* For each source required to obtain a Title V operating permit, the owner or operator or designated representative, where applicable, shall present or mail a complete and timely permit application in accordance with this rule to the following locations: Iowa Department of Natural Resources, Air Quality Bureau, ~~7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324~~ 502 East 9th Street, Des Moines, Iowa 50319 (one copy); and U.S. EPA Region VII, 11201 Renner Boulevard, Lenexa, Kansas 66219 (one copy); and, if applicable, the local permitting authority, which is either Linn County Public Health Department, Air Quality Division, 501 13th Street NW, Cedar Rapids, Iowa 52405 (one copy); or Polk County Public Works, Air Quality Division, 5885 NE 14th Street, Des Moines, Iowa 50313 (one copy). Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, or hand delivery. Applications are not required to be submitted by certified mail. Alternatively, an owner or operator may submit a complete and timely application through the electronic submittal format specified by the department. An owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit all required fees as required in 567—Chapter 30.

ITEM 8. Amend subrule 22.106(2) as follows:

22.106(2) *Emissions inventory and documentation due dates.* The emissions inventory shall be submitted ~~with forms through the electronic format specified by the department. For emissions located in Polk County or Linn County, three copies of the forms documenting actual emissions for the previous calendar year shall be submitted annually by March 31. For emissions in all other counties, two copies of the forms documenting actual emissions for the previous calendar year shall be submitted annually by March 31.~~

~~Alternatively, an An owner or operator may shall, by March 31, submit the required emissions inventory information through the electronic submittal format specified by the department documentation of actual emissions for the previous calendar year.~~

~~If there are any changes to the emission calculation form, the department shall make revised forms available to the public by January 1. If revised forms are not available by January 1, forms from the previous year may be used and the year of emissions documented changed. The department shall calculate the total statewide Title V emissions for the prior calendar year and make this information available to the public no later than April 30 of each year.~~

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ITEM 9. Amend subrule 22.128(4) as follows:

22.128(4) *Submission of copies.* Two copies of all permit applications shall be presented or mailed to the Air Quality Bureau, Iowa Department of Natural Resources, ~~7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324~~ 502 East 9th Street, Des Moines, Iowa 50319.

ITEM 10. Amend subrule 22.300(8) as follows:

22.300(8) *Registration and reporting requirements.*

a. Duty to apply. Any person who owns or operates a source otherwise required to obtain a Title V operating permit and which would be eligible for an operating permit by rule for small sources must either register for an operating permit by rule for small sources or apply for a Title V operating permit. Any source determined not to be eligible for an operating permit by rule for small sources, and operating without a valid Title V operating permit, shall be subject to enforcement action for operation without a Title V operating permit, except as provided for in the application shield provisions contained in rule 567—22.104(455B). For each source registering for an operating permit by rule for small sources, the owner or operator or designated representative, where applicable, shall present or mail to the Air Quality Bureau, Iowa Department of Natural Resources, ~~7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324~~ 502 East 9th Street, Des Moines, Iowa 50319, one original and one copy of a timely and complete registration form in accordance with this rule.

(1) to (4) No change.

b. No change.

ITEM 11. Amend subrule 22.300(12), introductory paragraph, as follows:

22.300(12) *Change of ownership.* The new owner shall notify the department in writing no later than 30 days after the change of ownership of equipment covered by an operating permit by rule for small sources. The notification to the department shall be mailed to Air Quality Bureau, Iowa Department of Natural Resources, ~~7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324~~ 502 East 9th Street, Des Moines, Iowa 50319, and shall include the following information:

ITEM 12. Amend subrule 23.1(2) as follows:

23.1(2) *New source performance standards.* The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~September 14, 2016~~ August 7, 2017, are adopted by reference, except § 60.530 through § 60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

a. to *bbbb.* No change.

cccc. Sewage sludge incineration units. Each sewage sludge incineration (SSI) unit for which construction or reconstruction commenced after October 14, 2010, or for which modification commenced after September 21, 2011, must comply. (Subpart LLLL)

ITEM 13. Amend subrule 23.1(4), introductory paragraph, as follows:

23.1(4) *Emission standards for hazardous air pollutants for source categories.* The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~September 14, 2016~~ August 3, 2018, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, “hazardous air pollutant” has

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the same meaning found in 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4) “a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

ITEM 14. Amend subrule 23.1(5) as follows:

23.1(5) Emission guidelines. The emission guidelines and compliance times for existing sources, as defined in 40 Code of Federal Regulations Part 60 as amended through ~~June 9, 2006~~ March 21, 2011, shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. ~~An earlier A different CFR reference and date for adoption by reference may be included with the subpart designation in parentheses indicated in the paragraphs of this subrule.~~ The control of the designated pollutants will be in accordance with federal standards established in Sections 111 and 129 of the Act and 40 CFR Part 60, Subpart B (Adoption and Submittal of State Plans for Designated Facilities), and the applicable subpart(s) for the existing source. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

a. to d. No change.

e. Emission guidelines and compliance times for existing sewage sludge incineration units (40 CFR Part 62, Subpart LLL). Emission guidelines and compliance times for control of designated pollutants from affected sewage sludge incineration (SSI) units that commenced construction or reconstruction on or before October 14, 2010, shall be in accordance with federal standards established in Subpart LLL of 40 CFR Part 62, as amended through April 29, 2016.

ITEM 15. Amend subrule 25.1(9) as follows:

25.1(9) Methods and procedures. Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or a permit condition are as follows:

a. No change.

b. *Continuous monitoring systems.* Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through ~~August 30, 2016~~ August 7, 2017); 40 CFR 60, Appendix F (as amended through August 30, 2016); 40 CFR 75, Appendix A (as amended through August 30, 2016); 40 CFR 75, Appendix B (as amended through August 30, 2016); and 40 CFR 75, Appendix F (as amended through August 30, 2016). The owner of the equipment or the owner’s authorized agent may use an alternative methodology for continuous monitoring systems if the methodology is approved by the department in writing before the minimum performance specification and quality assurance procedure is conducted.

c. No change.

[Filed 2/20/19, effective 4/17/19]

[Published 3/13/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4336C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to state supplementary assistance**

The Human Services Department hereby amends Chapter 51, "Eligibility," and Chapter 52, "Payment," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4; 20 CFR §§416.2095 and 416.2096; and 2017 Iowa Acts, House File 653, sections 53 and 70.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4; 20 CFR §§416.2095 and 416.2096; and 2017 Iowa Acts, House File 653, sections 53 and 70.

Purpose and Summary

These amendments strike the specific assistance standard amounts for State Supplementary Assistance and amend the assistance standards definition to include the legal citation to pass along cost-of-living adjustments (COLAs) in accordance with 20 CFR §§416.2095 and 416.2096. COLA changes are effective January 1 each year.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 2, 2019, as **ARC 4219C**. This rule making was also adopted and filed emergency and published in the Iowa Administrative Bulletin as **ARC 4220C** on the same date. The Department received no comments during the public comment period. These amendments are identical to those published in the Iowa Administrative Bulletin under Adopted and Filed Emergency and Notice of Intended Action.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on February 13, 2019.

Fiscal Impact

The residential care facility (RCF) and family-life home personal needs allowances are increasing by \$4 per month from \$99 to \$103 per month. The base personal needs allowance (PNA) is increased due to the 2.8 percent COLA this year along with an increase in the average monthly Medicaid copayment per client per month for RCF recipients. (The average Medicaid copayment per client per month is added to the base PNA to determine the final monthly PNA.) The average copayment per client per month for RCF recipients for August 2017 through July 2018 was \$1.71. This is an increase of \$0.81 from last year's average of \$0.90. For family-life home recipients, the \$17 increase in the payment to the family-life home is offset by the \$4 increase in the personal needs deduction and a \$21 increase in the supplemental security income (SSI) payment. The recipient will pay up to \$17 more due to the \$21 increase in income and a \$4 increase in the personal needs allowance. For RCF assistance recipients, the maximum total payment to the facility will increase up to \$20.77 per month per recipient $[(\$31.27 - \$30.60) \times 31 \text{ days}]$. RCF costs are shared by the state and the RCF recipient. Any potential increased costs to the state are expected to be more than offset by declining RCF caseloads in SFY 2019 and SFY 2020. For recipients of dependent-person assistance, the maximum monthly payment is increasing by \$11, from \$387 to \$398. Each dependent-person assistance recipient will receive up to an \$11 increase,

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resulting in an anticipated increase in state expenditures. However, this increase will be offset by the declining number of anticipated recipients, and most recipients do not qualify for the maximum payment.

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 17, 2019, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 51.4(1) as follows:

51.4(1) Income. Income of a dependent relative shall be less than ~~\$387 per month~~ the amount established by the department based on assistance standards as provided in rule 441—52.1(249). When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

ITEM 2. Amend rule 441—51.7(249) as follows:

441—51.7(249) Income from providing room and board. In determining ~~profit~~ income from furnishing room and board or providing family-life home care, ~~\$387 per month~~ the amount established by the department based on assistance standards as provided in rule 441—52.1(249) shall be deducted to cover the cost, and the remaining amount shall be treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

ITEM 3. Amend rule 441—52.1(249), introductory paragraph, as follows:

441—52.1(249) Assistance standards. Assistance standards are the amounts of money allowed on a monthly basis to recipients of state supplementary assistance in determining financial need and the amount of assistance granted. Current assistance standards shall be published on the department's website. Assistance standards shall be adjusted annually to reflect cost-of-living adjustments (COLA) adopted by the Social Security Administration, in accordance with 20 CFR §§416.2095 and 416.2096. Adjustments to the assistance standards based on COLA are effective January 1 of each year.

ITEM 4. Amend subrule 52.1(1) as follows:

52.1(1) Protective living arrangement. ~~The following assistance~~ Assistance standards have been shall be established by the department as provided in rule 441—52.1(249) for ~~state supplementary assistance~~ care and personal allowances for persons living in a family-life home certified under rules in 441—Chapter 111.

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\$813	Care allowance
<u>\$ 99</u>	Personal allowance
\$912	Total

ITEM 5. Amend subrule 52.1(2) as follows:

52.1(2) *Dependent relative.* ~~The following assistance~~ Assistance standards for the following categories ~~have been~~ shall be established by the department as provided in rule 441—52.1(249) for state supplementary assistance for dependent relatives residing in a recipient’s home.

- a. Aged or disabled client and a dependent relative..... \$1,137.
- b. Aged or disabled client, eligible spouse, and a dependent relative..... \$1,512.
- c. Blind client and a dependent relative..... \$1,159.
- d. Blind client, aged or disabled spouse, and a dependent relative..... \$1,534.
- e. Blind client, blind spouse, and a dependent relative..... \$1,556.

ITEM 6. Amend subrule 52.1(3) as follows:

52.1(3) *Residential care.* For periods of eligibility before July 1, 2017, the department will reimburse a recipient in either a privately operated or non-privately operated residential care facility on a flat per diem rate of ~~\$17.86~~ or on a cost-related reimbursement system with a maximum per diem rate of ~~\$30.14~~ established consistent with the assistance standards principles provided in rule 441—52.1(249). The department shall establish a cost-related per diem rate for each licensed residential care facility choosing the cost-related reimbursement method of payment according to rule 441—54.3(249).

For periods of eligibility beginning July 1, 2017, and thereafter, payment to a recipient in a privately operated licensed residential care facility shall be based on the maximum per diem rate of ~~\$30.14~~. Reimbursement for recipients in non-privately operated residential care facilities will be based on the flat per diem rate of ~~\$17.86~~ or be based on the cost-related reimbursement system with a maximum per diem rate of ~~\$30.14~~ established consistent with the assistance standards principles provided in rule 441—52.1(249).

~~For periods of eligibility beginning January 1, 2018, and thereafter, payment to a recipient in a privately operated licensed residential care facility shall be based on the maximum per diem rate of \$30.60. Reimbursement for recipients in non-privately operated residential care facilities will be based on the flat per diem rate of \$17.86 or be based on the cost-related reimbursement system with a maximum per diem rate of \$30.60.~~

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. All income of a recipient as described in this subrule after the disregards described in this subrule shall be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care shall be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

- (1) No change.
 - (2) An allowance of ~~\$99~~ established by the department consistent with rule 441—52.1(249) shall be given to meet personal expenses and Medicaid copayment expenses.
 - (3) to (6) No change.
- b. to g. No change.

[Filed 2/13/19, effective 4/17/19]

[Published 3/13/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4337C

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 6, "Covered Wages," Chapter 7, "Service Credit and Vesting Status," Chapter 8, "Service Purchases," Chapter 9, "Refunds," Chapter 11, "Application for, Modification of, and Termination of Benefits," Chapter 12, "Calculation of Monthly Retirement Benefits," Chapter 14, "Death Benefits and Beneficiaries," and Chapter 16, "Domestic Relations Orders and Other Assignments," 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.

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 6 to 10; to implement contribution rates for employers and regular and special service members beginning July 1, 2019; to simplify and update language in rules pertaining to sick and compensatory time; to emphasize that bona fide refunds require a member to remain out of IPERS-covered employment for 30 days and simplify language concerning restoring a member's account; to clarify vesting status post-June 30, 2012, for special service and regular service members; to rescind and replace language in subrule 8.1(1) to update and revise current rules covering service purchases to conform with current law and practice; to align Internal Revenue Code (IRC) Section 415 testing compliance language with actual practice and Internal Revenue Service (IRS) regulation of all service purchases; to emphasize that service credit purchases are available for leaves of absence only if previously approved by the employer; to clarify that members have 60 days from the date of IPERS' acceptance of a service purchase to revoke the purchase; to clearly define that periods during which a member was self-employed or worked as an independent contractor are not periods that can be used to make a service purchase; to stress the seriousness of the member's notarized statement regarding efforts to locate the member's spouse for the spouse's written acknowledgment by changing "indicating" to "affirming"; to combine subrules 9.4(2) and 9.4(3) to increase clarity regarding the determination of a member's last day of employment and use of an electronic funds transfer related to refunds; and to document current policy regarding payment of a named beneficiary's share to the other named beneficiaries in the event the named beneficiary predeceases the member. Also, this rule making is intended to provide for corrections of overpayments and underpayments of contributions and benefits caused by the misreporting of covered wages; to eliminate successor alternate payee (SAP) language from qualified domestic relations orders; and to improve the alternate payee benefit process while retaining a member's rights and securing alternate payee benefits.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 16, 2019, as **ARC 4238C**. A public hearing was held on February 5, 2019, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa. No one attended the public hearing.

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IPERS received one comment by email from a member concerned with the proposed changes to how alternate payee funds will be distributed when the alternate payee never claims the benefit. IPERS considered the comment and made no change to the rule. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by IPERS on February 20, 2019.

Fiscal Impact

Contribution rate changes for all three member classes of IPERS employees (regular member, sheriffs and deputy sheriffs, and protection occupation) are reflected. No fiscal impact for regular class members has been found. A decreased fiscal impact for sheriffs and deputy sheriffs has been found. A decreased fiscal impact for the protection occupation class has been found.

Jobs Impact

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

Waivers

There are no discretionary rules in this filing. IPERS is following nondiscretionary statutes and rules adopted by the federal and state governments.

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 17, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 4.6(1) as follows:

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, 2014	Effective July 1, 2015	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019
Combined rate	14.88%	14.88%	14.88%	14.88%	15.73%	<u>15.73%</u>
Employer	8.93%	8.93%	8.93%	8.93%	9.44%	<u>9.44%</u>
Employee	5.95%	5.95%	5.95%	5.95%	6.29%	<u>6.29%</u>

ITEM 2. Amend subrule 4.6(2) as follows:

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

	Effective July 1, 2014	Effective July 1, 2015	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019
Combined rate	19.76%	19.76%	19.26%	18.76%	19.52%	19.02%
Employer	9.88%	9.88%	9.63%	9.38%	9.76%	9.51%
Employee	9.88%	9.88%	9.63%	9.38%	9.76%	9.51%

ITEM 3. Amend subrule 4.6(3) as follows:

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2014	Effective July 1, 2015	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019
Combined rate	16.90%	16.40%	16.40%	16.40%	17.02%	16.52%
Employer	10.14%	9.84%	9.84%	9.84%	10.21%	9.91%
Employee	6.76%	6.56%	6.56%	6.56%	6.81%	6.61%

ITEM 4. Amend subrule 6.3(2) as follows:

6.3(2) *Sick pay.* Sick pay means ~~payments made for sick leave which are a continuation of salary payments~~ the amount paid to an employee during a period of sick leave.

ITEM 5. Amend subrule 6.3(4) as follows:

6.3(4) *Compensatory time.* Wages include amounts paid for compensatory time taken in lieu of regular work hours or when paid as a lump sum. However, compensatory time paid in a lump sum shall not exceed 240 hours per employee per year or any lesser number of hours set by the employer. Each employer shall determine whether to use the calendar year or a fiscal year other than the calendar year when setting its compensatory time policy. The wages reported to IPERS must reflect the employer's policy.

ITEM 6. Amend subrule 6.4(2) as follows:

6.4(2) One quarter of service will be credited for each quarter in which a member is paid IPERS-covered wages.

a. "Covered wages" means wages of a member during periods of service that do not exceed the annual covered wage maximum as permitted for a given year under Sections 401(a)(17)(A) and (B) of the Internal Revenue Code, which are incorporated herein by this reference.

b. ~~Effective January 1, 1988, covered wages shall include wages paid a member regardless of age. (From July 1, 1978, until January 1, 1988, covered wages did not include wages paid a member on or after the first day of the month in which the member reached the age of 70.)~~

e. b. If a member is employed by more than one employer during the calendar year, the total amount of wages paid by all covered employers shall be included in determining the annual covered wage limit established under Sections 401(a)(17)(A) and (B) of the Internal Revenue Code. If the amount of wages paid to a member by several employers during any given month exceeds the covered wage limit as determined for that calendar year, the amount of the excess shall not be subject to contributions required by Iowa Code section 97B.11. IPERS shall not accept excess wages and applicable contributions from employers and shall return excess contributions as provided in 495—subrule 4.3(8).

ITEM 7. Rescind subrule **6.5(7)**.

ITEM 8. Rescind subrule **6.5(8)**.

ITEM 9. Adopt the following new rule 495—6.6(97B):

495—6.6(97B) Corrections of overpayments and underpayments of contributions and benefits caused by misreporting of covered wages. IPERS shall use the following guidelines in requiring corrections of overpayments and underpayments of contributions caused by misreported wages or IPERS-covered service. Corrections must be made for all current employees omitted in error, active, retired, and inactive members, subject to the following limitations:

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

6.6(1) If employer and employee contributions were underreported, wage adjustments shall be filed and employers shall be billed for all shortages of employer and employee contributions plus interest. Employers shall be entitled to collect reimbursement for the employee share of contributions as provided in Iowa Code section 97B.9. If retirement benefits have been underpaid as a result of the error, IPERS shall, upon receipt of the contribution shortage, make the appropriate adjustments and pay all back benefits.

6.6(2) If employer and employee contributions were overreported, wage adjustments shall be filed and the appropriate contribution amounts shall be credited to employers for distribution to the respective employee and employer contributors. If the reporting error caused an overpayment of retirement benefits, IPERS may offset excess contributions received against overpayments and shall request a repayment of the remainder of the overpayment, if any, from the recipient.

Wage adjustments, overpayments and underpayments, and unintentional reporting errors shall be determined as of the onset of the error. Notwithstanding the foregoing adjustment and collection standards, IPERS reserves the right to negotiate adjustments with individual employers in special situations, and no negotiated settlement with an employer shall be deemed to constitute a waiver of this rule or a binding precedent for other employers.

ITEM 10. Amend paragraph **7.1(1)“c”** as follows:

c. Notwithstanding paragraph **7.1(1)“b”** above, a member who is on an unpaid leave of absence and who during the period covered by the unpaid leave performs services for the covered employer granting the unpaid leave shall not receive service credit for such services until the employer has reported \$1,000 in each of two consecutive quarters included in the unpaid leave period, and such service credit shall be granted only with respect to quarters beginning after said two consecutive quarters.

ITEM 11. Rescind rule **495—7.2(97B)**.

ITEM 12. Renumber rule **495—7.3(97B)** as **495—7.2(97B)**.

ITEM 13. Amend renumbered rule 495—7.2(97B) as follows:

495—7.2(97B) Vesting status.

7.2(1) to 7.2(4) No change.

7.2(5) *Vesting at age 55 prior to July 1, 2012.* IPERS shall interpret Iowa Code section 97B.1A(25)“a”(3), ~~as enacted in 2010 Iowa Acts, House File 2518, section 21,~~ as follows: for periods prior to July 1, 2012, the phrase “has attained the age of fifty-five or greater while in covered employment” means “has attained the age of fifty-five or greater while an active member, as defined in Iowa Code section 97B.1A(3)”.

7.2(6) *Vesting after June 30, 2012.* For periods after June 30, 2012, the member becomes vested if the member meets one of the following requirements:

a. For a member in a special service, has attained the age of 55 or greater while in covered employment.

b. For a member in regular service, has attained the age of 65 or greater while in covered employment.

The phrase “covered employment” means “active member” as defined by Iowa Code section 97B.1A(3).

ITEM 14. Rescind subrule 8.1(1) and adopt the following **new** subrule in lieu thereof:

8.1(1) *Estimates and cost quotes.* All service purchase estimates and cost quotes shall be calculated at actuarial cost. The following procedures and calculations shall apply:

a. Service purchase estimate prior to retirement. Members who are vested by service may request a service purchase estimate by completing and submitting a service purchase application. Once the application is submitted, IPERS shall complete a cost estimate. This calculation is an estimate only and is not considered binding. The cost estimate shall be calculated as follows:

(1) IPERS will calculate the actuarial cost by capturing the projected baseline benefit attributes at the member’s anticipated retirement date without any service purchase quarterly credits including:

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average salary, years of service, the Option 2 benefit amount, accumulated member contributions and the calculated present-day reserve value. The present-day reserve value is a lump sum value calculated with actuarial tables provided by the system's actuary which represents the lump sum value sufficient to pay the monthly benefits over the member's expected life span.

(2) With each potential purchasable quarterly service credit, IPERS will recalculate the Option 2 benefit amount. A new present-day reserve value will also be calculated. The cost of each quarterly service credit will be the difference between the new reserve amount and the previous one.

b. Final service purchase cost quote at retirement. On or before the date that a member's first benefit payment is issued, a member who is vested by service may request a final service purchase cost quote by completing and submitting an application for retirement/disability benefit indicating the member's desire to receive a final service purchase cost quote. After the completed application has been submitted, IPERS shall generate a final service purchase cost quote once all of the member's wages are submitted to IPERS, which may be after the member's first month of entitlement. The final cost quote shall be calculated as follows:

(1) IPERS will calculate the cost by capturing the baseline benefit attributes at the member's first month of entitlement without any service purchase quarterly credits including: average salary, years of service, the Option 2 benefit amount, accumulated member contributions and the calculated present-day reserve value. The present-day reserve value is a lump sum value calculated with actuarial tables provided by the system's actuary which represents the lump sum value sufficient to pay the monthly benefits over the member's expected life span. With each potential purchasable service credit, IPERS will recalculate the Option 2 benefit amount. A new present-day reserve value will also be calculated. The cost of each purchasable quarter of service credit will be the difference between the new reserve amount and the previous one.

(2) The retired member will have six months from the date in which IPERS generates the final service purchase cost quote to purchase additional service.

(3) If the retired member purchases service within the six-month deadline, the increase in the retirement benefit shall be made effective with the month of the service purchase payment.

(4) Retired members who do not indicate their desire for a final service purchase cost quote on or before the date their first payment is issued or do not complete the purchase within the six-month deadline indicated on the final service purchase cost quote shall not be eligible to purchase additional credit.

(5) Retired members who selected Option 1 upon retirement may request the lump sum death benefit to be increased to take into account the additional contributions from making a service purchase. If the member requests an increase in the death benefit, the monthly benefit will be reduced to take into account the increased death benefit.

c. Cost adjustments due to changes in the original retirement benefit. If an error in the service purchase cost is discovered or a retired member's account is adjusted in any manner after a purchase is made, IPERS may rescind the service purchase, make adjustments to the service purchase cost, or adjust the retirement allowance to ensure the member paid the actuarial cost of buying additional service. In the event that a retired member overpays due to an adjustment, IPERS will issue a refund to the retired member directly or to the rollover institution.

ITEM 15. Amend subrule 8.1(2) as follows:

8.1(2) Service credit for other public employment.

~~a. Effective July 1, 1992, a vested or retired~~ A member may make application to IPERS for purchasing credit for service rendered to another public employer. In order to be eligible, a member must:

(1) Have been a public employee in a position comparable to an IPERS covered position at the time the application for buy-in is processed. Effective July 1, 1990, "public employee" includes a member who had service as a public employee in another state, or for the federal government, or within other retirement systems established in the state of Iowa; and

(2) Submit verification of service for that other public employer to IPERS.

~~A quarter of credit may be purchased for each quarter the employee received wages.~~

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~~b.~~—Effective July 1, 1992, through June 30, 1999, a qualifying member who decides to purchase IPERS credit must make employer and employee contributions to IPERS for each calendar quarter of service allowed in this buy-in. This contribution shall be determined using the member's IPERS covered wages for the most recent full calendar year of IPERS coverage, the applicable rates established in Iowa Code sections 97B.11, 97B.49B and 97B.49C, and multiplied by the number of quarters being purchased from other public employment. "Applicable rates" means the rates in effect at the time of purchase for the types of service being purchased. A member must have at least four quarters of reported wages in any calendar year before a buy-in cost may be calculated.

~~c.~~—Effective July 1, 1992, through June 30, 1999, if a vested or retired member does not have wages in the most recent calendar year, the cost of the buy-in will be calculated using the member's last calendar year of reported wages, adjusted by an inflation factor based on the Consumer Price Index as published by the United States Department of Labor.

~~d. b.~~ Members eligible to complete the buy-in may buy the entire period of service for a public employer or may buy credit in increments of one or more calendar quarters. The quarters need not be specifically identified to particular calendar quarters. A period of service is defined as follows: (1) if a member was continuously employed by an employer, the entire time is one period of employment, regardless of whether a portion or all of the service was covered by one or more retirement systems; and (2) if a member is continuously employed by multiple employers within a single retirement system, the entire service credited by that retirement system is one period of employment. A member with service credit under another public employee retirement system who wishes to transfer only a portion of the service value of the member's public service in another public system to IPERS must provide a waiver of that service time to IPERS together with proof that the other public system has accepted this waiver and allowed partial withdrawal of service credit. Members are allowed to purchase time credited by the other public employer as a leave of absence in the same manner as other service credit. However, members wishing to receive free credit for military service performed while in the employ of a qualifying non-IPERS covered public employer must purchase the entire period of service encompassing the service time for that public employer or in the other retirement system, excluding the military time. Veterans' credit originally purchased in another retirement system may be purchased in the same manner as other service credit.

~~e.~~—The total amount paid will be added to the member's contributions, and the years of service this amount represents will be added to the member's IPERS years of service. Effective January 1, 1993, the purchase will not affect the member's three-year average covered wage.

~~f.~~—Effective July 1, 1999, an eligible member must pay the actuarial cost of a buy-in, as certified by IPERS. In calculating the actuarial cost of a buy-in, IPERS shall apply the same actuarial assumptions and cost methods used in preparing IPERS' annual actuarial valuation, except that: (1) the retirement assumption shall be changed to 100 percent at the member's earliest unreduced retirement age; and (2) if gender-distinct mortality assumptions are used in the annual actuarial valuation, the system shall use blended mortality assumptions reasonably representative of the system's experience. The actuarial cost of a service purchase shall be the difference between (1) the actuarial accrued liability for the member using the foregoing assumptions and current service credits, and (2) the actuarial accrued liability for the member using the foregoing assumptions, current service credits, and all quarters of service credit available for purchase. If IPERS changes the service purchase mortality assumptions, all outstanding service purchase quotes shall be binding for the remainder of the periods for which the cost quotes were issued. A cost quote for a service purchase shall expire six months after the date printed on the cost quote letter. After that time, a new cost quote must be obtained for any quarters not previously purchased.

~~g.~~—Effective January 1, 2016, for new service purchase applications and updated cost requests received, the following procedures and calculations shall apply:

(1) Service purchase estimate prior to retirement. Members who are vested by service may request a service purchase estimate by completing and submitting a service purchase application. Once the application is submitted, IPERS shall complete a cost estimate. This calculation is an estimate only and is not considered binding. The cost estimate shall be calculated as follows:

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1.—IPERS will calculate the cost by capturing the baseline benefit attributes at the member's anticipated retirement date without any service purchase quarterly credits including: average salary, years of service, the Option 2 benefit amount, current member investment amount and the calculated present day reserve value. The present day reserve value is a lump sum value calculated with actuarial tables provided by the system's actuary which represents the lump sum value sufficient to pay the monthly benefits over the member's expected life span.

2.—With each potential purchasable quarterly service credit, IPERS will recalculate the Option 2 benefit amount. A new present day reserve value will also be calculated. The cost of each quarterly service credit will be the difference between the new reserve amount and the previous one.

(2) Final service purchase cost quote at retirement. On or before the date that a member's first benefit payment is issued, a member who is vested by service may request a final service purchase cost quote by completing and submitting an application for retirement/disability benefit indicating the member's desire to receive a final service purchase cost quote. After the completed application has been submitted, IPERS shall generate a final service purchase cost quote once all of the member's wages are submitted to IPERS, which may be after the member's first month of entitlement. The final cost quote shall be calculated as follows:

1.—IPERS will calculate the cost by capturing the baseline benefit attributes at the member's first month of entitlement without any service purchase quarterly credits including: average salary, years of service, the Option 2 benefit amount, current member investment amount and the calculated present day reserve value. The present day reserve value is a lump sum value calculated with actuarial tables provided by the system's actuary which represents the lump sum value sufficient to pay the monthly benefits over the member's expected life span. With each potential purchasable service credit, IPERS will recalculate the Option 2 benefit amount. A new present day reserve value will also be calculated. The cost of each purchasable quarter of service credit will be the difference between the new reserve amount and the previous one.

2.—The retired member will have six months from the date in which IPERS generates the final service purchase cost quote to purchase additional service.

3.—If the retired member purchases service within the six month deadline, the increase in the retirement benefit shall be made effective with the month of the service purchase payment.

4.—Retired members who do not indicate their desire for a final service purchase cost quote on or before the date their first payment is issued or do not complete the purchase within the six month deadline indicated on the final service purchase cost quote shall not be eligible to purchase additional credit.

5.—Retired members who selected Option 1 upon retirement may request the lump sum death benefit to be increased to take into account the additional contributions from making a service purchase. If the member requests an increase in the death benefit, the monthly benefit will be reduced to take into account the increased death benefit.

(3) Cost adjustments due to changes in the original retirement benefit. If an error in the service purchase cost is discovered or a retired member's account is adjusted in any manner after a purchase is made, IPERS may rescind the service purchase, make adjustments to the service purchase cost, or adjust the retirement allowance to ensure the member paid the actuarial cost of buying additional service. In the event that a retired member overpays due to an adjustment, IPERS will issue a refund to the retired member directly or to the rollover institution.

ITEM 16. Amend subrule 8.1(3) as follows:

8.1(3) IPERS buy-back. Effective July 1, 1996, only vested or retired members Members may buy back previously refunded IPERS service credit under the methodology of subrule 8.1(1). For the period beginning July 1, 1996, and ending June 30, 1999, an eligible member is required to make membership contributions equal to the accumulated contributions received by the member for the period of service being purchased plus accumulated interest and interest dividends. Effective July 1, 1999, an eligible member must pay the actuarial cost of a buy-back, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions and cost methods used in preparing IPERS' annual actuarial valuation, except that: (1) the retirement assumption shall be changed to 100 percent

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

at the member's earliest unreduced retirement age; and (2) if gender distinct mortality assumptions are used in the annual actuarial valuation, the system shall use blended mortality assumptions reasonably representative of the system's experience. The actuarial cost of a service purchase shall be the difference between (1) the actuarial accrued liability for the member using the foregoing assumptions and current service credits, and (2) the actuarial accrued liability for the member using the foregoing assumptions, current service credits, and all quarters of service credit available for purchase. If IPERS changes the service purchase mortality assumptions, all outstanding service purchase quotes shall be binding for the remainder of the periods for which the cost quotes were issued. A cost quote for a service purchase shall expire six months after the date printed on the cost quote letter. After that time, a new cost quote must be obtained for any quarters not previously purchased.

Effective July 1, 1996, buy-backs may be made in increments of one or more calendar quarters. Prior to July 1, 1996, the member was required to repurchase the entire period of service and repay the total amount received plus accumulated interest and interest dividends.

A member who is vested solely by having attained the age of 55 must have at least one calendar quarter of wages on file with IPERS before completing a buy-back.

For persons who submitted requests for buy-back cost quotes on or before January 14, 2004, IPERS shall restore the wage records of a member who makes a buy-back based on those quotes and utilize those wage records in subsequent benefit calculations for that member.

For persons who submit requests for buy-back cost quotes and make purchases based on those quotes after January 14, 2004, IPERS shall not restore the wage records for the purchased quarters. After January 14, 2004, such buy-backs shall be treated like all other service purchases and IPERS will only restore service credit.

Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2) "g."

ITEM 17. Rescind subrule **8.1(4)**.

ITEM 18. Renumber subrules **8.1(5)** and **8.1(6)** as **8.1(4)** and **8.1(5)**.

ITEM 19. Amend renumbered subrule 8.1(4) as follows:

8.1(4) Veterans' credit.

a. Effective July 1, 1992, a vested or retired A member, in order to receive service credit under the IPERS system, may elect to make employer and employee contributions to IPERS may make a service credit purchase for a period of active duty service in the armed forces of the United States, in increments of one or more calendar quarters, if the member produces verification of active duty service in the armed forces of the United States.

b.—A member must have at least four quarters of reported wages in any calendar year before a buy-in cost may be calculated.

c.—A service purchase shall not affect the member's high three-year average wage.

d.—Effective July 1, 1999, an eligible member must pay the actuarial cost of a military service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions and cost methods as those in paragraph 8.1(2) "f."

e.—Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2) "g."

ITEM 20. Amend renumbered subrule 8.1(5) as follows:

8.1(5) Legislative members.

a. Active members. Persons who are members of the Seventy-first General Assembly or a succeeding general assembly during any period beginning July 4, 1953, may, upon proof of such membership in the general assembly, make contributions to the system for all or a portion of the period of such service in the general assembly. The contributions made by the member shall be determined in the same manner as provided in paragraph 8.1(2) "f."

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b. Vested or retired former members of the general assembly.

~~(1) A vested or retired member of the system who was a member of the general assembly prior to July 1, 1988, may make contributions to the system for all or a portion of the period of service in the general assembly.~~

~~(2) The contributions made by the member shall be equal to the accumulated contributions as defined in Iowa Code section 97B.1A(2), which would have been made if the member of the general assembly had been a member of the system during the period of service in the general assembly being purchased.~~

~~(3) (1) The member shall submit to IPERS proof of membership in the general assembly for the period claimed.~~

~~(4) (2) Upon determining a member eligible and receiving the appropriate contributions from the member, IPERS shall credit the member with the period of membership service for which contributions are made.~~

~~*e. Incremental purchases.* Service purchased under this subrule must be purchased in increments of one or more calendar quarters.~~

~~*d. Actuarial cost.* Effective July 1, 1999, an eligible member must pay 40 percent and the Iowa legislature shall pay 60 percent of the actuarial cost of a legislative service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions and cost methods as those in paragraph 8.1(2)“f.”~~

~~*e. c. Actuarial cost.* Effective January 1, 2016, the member must be vested by service and must pay 40 percent and the Iowa legislature shall pay 60 percent of the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)“g.” subrule 8.1(1).~~

ITEM 21. Rescind subrule **8.1(7)**.

ITEM 22. Renumber subrules **8.1(8)** to **8.1(10)** as **8.1(6)** to **8.1(8)**.

ITEM 23. Amend renumbered subrule 8.1(6) as follows:

8.1(6) Leaves Employer-approved leaves of absence. Service credit for employer-approved leaves of absence that begin on or after July 1, 1998, may be purchased. ~~A member must be vested or retired and must have one calendar year of wages on file in order to make such a purchase.~~

~~For a leave of absence beginning on or after July 1, 1998, and purchased before July 1, 1999, the service purchase cost shall be equal to the employer and employee contributions and interest payable for the employee's most recent year of covered wages, adjusted by the inflation factor used in paragraph 8.1(2)“e.” For a leave of absence beginning on or after July 1, 1998, and purchased on or after July 1, 1999, the service purchase cost shall be the actuarial cost, as certified by IPERS. In calculating the actuarial cost of a service purchase under this subrule, IPERS shall apply the same actuarial assumptions and cost methods as those in paragraph 8.1(2)“f.”~~

~~Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)“g.”~~

ITEM 24. Amend renumbered subrule 8.1(7) as follows:

8.1(7) Service credit for elective coverage positions—coverage not elected. Service credit for periods of time prior to January 1, 1999, when the member was employed in a position for which coverage could have been elected, but was not, may be purchased. ~~The cost of such service purchases shall be calculated in the same manner as provided for buy-ins under paragraph 8.1(2)“f.” In addition, a member must be vested or retired, and must have one calendar year of wages on file in order to make such a purchase.~~

~~Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)“g.”~~

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ITEM 25. Amend renumbered subrule 8.1(8) as follows:

8.1(8) Service credit for noncovered public employment in Iowa. A ~~vested or retired~~ member who ~~has one or more years of service credit and who~~ was previously employed in public employment for which optional coverage was not available, such as substitute teaching or other temporary employment, may purchase service credit for such employment subject to the requirements of Iowa Code section 97B.80C. Service credit may not be purchased under this subrule for periods in which the individual was performing services as an independent contractor. ~~The contributions required under this subrule shall be in an amount equal to the actuarial cost of the service purchase as determined under paragraph 8.1(2) "f."~~

~~Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2) "g."~~

ITEM 26. Amend rule 495—8.2(97B) as follows:

495—8.2(97B) Revocation of service purchase application and refund of amounts paid. A member may revoke a service purchase application and receive a refund without interest of all or a portion of amounts paid to IPERS to buy back prior service credit or to purchase credit for other service pursuant to Iowa Code chapter 97B. The revocation must be made in writing and must be made within 60 days after the date of receipt of such amounts by IPERS. Such refunds shall be in increments representing one or more quarters. ~~No refund shall be made if a member has made a service purchase under this chapter and one or more monthly retirement allowance payments have been made thereafter.~~ Furthermore, this rule shall not limit IPERS' ability to refund service purchase amounts when required in order to meet the provisions of the Internal Revenue Code that apply to IPERS. This rule shall be effective for revocation requests received by IPERS on or after May 3, 1996.

ITEM 27. Amend rule 495—8.3(97B), introductory paragraph, as follows:

495—8.3(97B) IRC Section 415(n) compliance. Service purchases made under this chapter ~~and other posttax contributions, including buy-backs and buy-ups,~~ shall not exceed the defined contribution dollar limit then in effect under Internal Revenue Code Section 415(e) ~~415(c)(1),~~ per calendar year, as provided under IRC Section 415(n)(2)(B). In addition, the amounts contributed for service purchases under this chapter shall not exceed the amount required to purchase the service according to the current cost schedules. In implementing these and the other requirements of IRC Section 415(n), IPERS shall use the following procedures.

ITEM 28. Amend subrule 8.3(4) as follows:

8.3(4) The limitations of this rule shall ~~not~~ apply to buy-backs of prior refunds. In addition, the annual limit under this rule shall not apply to service purchases grandfathered under the provisions of the Iowa Code and Section 1526 of the Taxpayer Relief Act of 1997.

ITEM 29. Rescind subrule **8.3(6).**

ITEM 30. Renumber subrules **8.3(7)** and **8.3(8)** as **8.3(6)** and **8.3(7).**

ITEM 31. Amend renumbered subrule 8.3(6) as follows:

8.3(6) The IRC Section 415(c) limitations shall not apply to a service purchase that qualifies as a direct rollover ~~for~~ from an eligible retirement plan or a direct transfer from a plan qualified under IRC Section 403(b) or 457. ~~The IRC Section 415(c) limits also shall not apply to a service purchase under subrule 8.1(3).~~

ITEM 32. Rescind and reserve rule **495—8.4(97B).**

ITEM 33. Rescind subrule **8.5(1).**

ITEM 34. Renumber subrules **8.5(2)** to **8.5(4)** as **8.5(1)** to **8.5(3).**

ITEM 35. Amend renumbered subrule 8.5(1) as follows:

8.5(1) Additional service purchase procedures.

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a. Service purchase cost quotes for members currently in special service positions shall be prepared as special service credit.

b. Members covered under another retirement plan. Members who wish to buy service credit for employment that is covered by another retirement plan qualified under IRC Section 401, IRC Section 403 or 457 and similar plans and retirement pay from the United States government for active duty in the armed forces (except retirement pay for nonregular service pursuant to 10 U.S.C. Sections 12731-12739) must waive their right to benefits based on the service credit that is being purchased under IPERS. ~~If a waiver is not obtained, however, service purchases for such employment may still be made but shall be limited to 20 quarters.~~

~~c. Members retired under IPERS' disability formula. A retired member receiving IPERS benefits as a result of a disability shall receive a service purchase cost quote which reflects no penalty for early age reduction.~~

~~d. c.~~ Effective January 1, 2007, IPERS may, notwithstanding certain provisions of Iowa Code section 97B.82 adopted in order to comply with prior rollover provisions of the Internal Revenue Code, utilize forms and procedures permitting direct rollover service purchases to include after-tax amounts as provided under the applicable rollover provisions of the Internal Revenue Code as amended subsequent to the enactment of Iowa Code section 97B.82.

ITEM 36. Amend renumbered subrule 8.5(2) as follows:

8.5(2) Additional service purchase limitations.

a. Under no circumstances shall service purchases be allowed for quarters already on file with IPERS as covered quarters.

b. If a member has requested a service purchase cost quote and, before the six-month expiration has passed, submits another request for a service purchase cost quote for the same or different employer, the new service purchase cost quote will be based on a combination of the two service purchase cost quotes. The latest service purchase cost quote shall supersede all prior cost quotes provided to the member for the quarters that the member purchases after the issuance of the second cost quote.

~~c. If before the six-month expiration has passed a member has made a partial purchase under a service purchase cost quote and requests another service purchase cost quote, the quarters covered by the original cost quote will be added to the new request. IPERS will prepare a new service purchase cost quote. The latest service purchase cost quote shall supersede all prior quotes provided to the member for quarters that the member purchases after the issuance of the second cost quote. For example, if the member receives a cost quote of \$300 per quarter for 6 quarters of Illinois public employment and, three months later, after buying 3 Illinois quarters, requests a service purchase cost quote for 8 quarters of military service, the second quote would be prepared using 11 quarters as the basis for the cost quote. The per quarter cost quote prepared using the 11 quarters would supersede the \$300 per quarter cost previously quoted. This superseding cost principle will apply regardless of whether the recalculated cost is greater or less than the superseded quote. Thus, in the above example, if the second cost quote is \$350 per quarter, that would be the price for all 11 quarters for the next six months. However, if the second quote comes in at \$250 per quarter, that would be the cost for all 11 quarters for the next six months.~~

~~d. c.~~ Self-employed and independent contractor members. ~~Because of the difficulty in documenting what portion of the amounts paid are actually related to the performance of services, including amounts reported to the federal and state tax authorities, members~~ Members shall not be permitted to purchase service credit for periods of self-employment or as an independent contractor.

ITEM 37. Amend renumbered subrule 8.5(3) as follows:

8.5(3) "Buy-up" Buy-up of service credit through service purchase. Effective July 1, 2008, IPERS members may be allowed to "buy up" service credit. The term "buy up" means to convert regular service credit to special service credit by payment of the actuarial cost pursuant to the requirements of subrule 8.1(1). ~~In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions and cost methods as those in paragraph 8.1(2) "f," except as modified according to the actuary's recommendations.~~

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

~~Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2) "g."~~

~~a. Active, retired and inactive members. Effective January 1, 2016, a member must have at least one quarter of available or retired special service wages on file and must be vested by years of service at the time of the buy-up.~~

~~b. a. Mixture of service time. If a member's service time contains a mixture of regular, protection and sheriff service credit, IPERS shall prepare buy-up cost quotes prior to other service credit purchases and shall process the buy-up as follows:~~

~~(1) If the member is currently employed in the sheriff class or retired as a sheriff, the cost quote shall be prepared reflecting a buy-up to sheriff service credit.~~

~~(2) If the member is not currently employed in the sheriff class or did not retire as a sheriff, the cost quote shall be prepared reflecting a buy-up to protection occupation service credit.~~

~~e. b. Wage adjustment after a buy-up. If an employer wage adjustment completely removes a member's service credit in a buy-up quarter, IPERS shall correct the service credit and perform the necessary recalculations.~~

~~d. c. IRS limitations. Buy-up service purchases will be aggregated with buy-in and buy-back service purchases during a calendar year and subjected to the applicable limits of shall not exceed the defined contribution dollar limit then in effect under Section 415(c) of the Internal Revenue Code. Amounts that are rolled over from other qualified plans for service purchases are excluded from these limits.~~

ITEM 38. Amend subrule 9.4(1) as follows:

9.4(1) To obtain a refund, a member must file a refund application form, which is available directly from IPERS or which can be reprinted from IPERS' ~~Web site~~ website: www.ipers.org. Effective December 31, 2002, refund application forms shall only be available from IPERS. If the member is married, election of a refund under this chapter requires the written acknowledgment of the member's spouse. However, the system may accept a married member's election of a refund under this chapter without the written acknowledgment of the member's spouse if the member submits a notarized statement ~~indicating~~ affirming that, after reasonable diligent efforts, the member has been unable to locate the member's spouse to obtain the written acknowledgment of the spouse. The member's election of a refund shall become effective upon filing the necessary forms, including the notarized statement, with the system. The system shall not be liable to the member, the member's spouse, nor to any other person affected by the member's election of a refund based upon an election of a refund accomplished without the written acknowledgment of the member's spouse.

ITEM 39. Amend subrule 9.4(2) as follows:

9.4(2) The last date the member is considered an employee and the date of the last paycheck from which IPERS contributions will be deducted must be certified by the employer on the refund application unless the member has not been paid covered wages for at least one year or the employer has provided the termination date and date of the last paycheck on the monthly wage reports filed with IPERS. Terminated employees must keep IPERS advised in writing of any change in address so that refunds and tax documents may be delivered. Unless an electronic funds transfer is requested by the member, the refund warrant will be mailed to the member at the address listed on the application for refund.

ITEM 40. Rescind subrule **9.4(3)**.

ITEM 41. Renumber subrules **9.4(4)** to **9.4(6)** as **9.4(3)** to **9.4(5)**.

ITEM 42. Amend renumbered subrule 9.4(4) as follows:

9.4(4) Effective July 1, 2004, an employee must sever all covered employment for 30 days after the date the employee was last considered an employee, ~~and not for 30 days after the date of the last paycheck containing IPERS covered wages~~ of a covered employer.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ITEM 43. Amend rule 495—9.6(97B) as follows:

495—9.6(97B) Refund followed by commencement of disability benefits under Iowa Code section 97B.50(2). If a vested member terminates covered employment, takes a refund, and is subsequently approved for disability under the federal Social Security Act or the federal Railroad Retirement Act, the member may reinstate membership service credit for the period covered by the refund by paying the actuarial cost as determined by IPERS' actuary in 495—subrule 8.1(1) and within 90 days after the date federal social security disability or railroad retirement disability payments begin. Repayments must be made by:

1. For members whose federal social security or railroad retirement disability payments begin before July 1, 2000, within 90 days after July 1, 2000; or

2. For members whose social security or railroad retirement disability payments begin on or after July 1, 2000, within 90 days after the date federal social security or railroad retirement payments begin.

ITEM 44. Amend subrule 11.5(3) as follows:

11.5(3) Bona fide refund. For a member to be eligible for a lump sum refund, the member must terminate the member's covered employment and remain out of employment for 30 days with all covered employers. The 30-day bona fide refund period shall be waived for an elected official covered under Iowa Code section 97B.1A(8)"a"(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8)"a"(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the refund. Such an official may remain in the elective office and receive an IPERS refund without violating IPERS' bona fide refund rules. If such elected official terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a refund as of the date of hire, the refund shall not be made. Furthermore, if such elected official is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the public official shall not be eligible for new IPERS coverage for such elected position.

The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official is reelected to the same position without an intervening term out of office. The waiver granted in this subrule shall be applicable to such elected officials who were in violation of the prior bona fide refund rules on and after November 1, 2002, when such individuals have not repaid the previously invalid refund.

If a member takes a refund in violation of the bona fide refund requirements of Iowa Code section 97B.53(4), the member ~~shall have 30 days from the date of written notice by IPERS to repay the refund in full without interest. Thereafter, in order to receive service credit for the period covered by the refund, the member shall be required to buy back the period of service at its full actuarial cost~~ may return the refund during the bona fide retirement period and restore the member's account.

ITEM 45. Amend paragraph **12.4(5)"b"** as follows:

b. The applicable percentage multiplier divided by 30 times the years of regular service credit (if any) times the member's high three-year average prior to July 1, 2012, or the member's high five-year average after June 30, 2012, covered wage minus the applicable wage reduction (if any).

c. If the sum of the percentages obtained exceeds the applicable percentage multiplier for that member, the percentage obtained above for each class of service shall be subject to reduction so that the total shall not exceed the member's applicable percentage multiplier in the order specified in paragraph **12.4(3)"e"** ~~of this subrule.~~ 12.4(3)"c."

ITEM 46. Amend subrule 12.5(1) as follows:

12.5(1) For each member who is vested prior to July 1, 2012, and is retiring prior to July 1, 2012, with less than four complete years of service, a monthly annuity shall be determined by applying the total reserve as of the effective retirement date (plus any retirement dividends standing to the member's credit on December 31, 1966) to the annuity tables in use by the system according to the member's age (or member's and contingent annuitant's ages, if applicable). If the member's retirement occurs before

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January 1, 1995, IPERS' revised ~~6.5~~ 6.50 percent tables shall be used. If the member's retirement occurs after December 31, 1994, IPERS' ~~6.75~~ 6.75 percent tables shall be used. If the member's retirement occurs after December 31, 2009, IPERS' 7.50 percent tables shall be used. If the member's retirement occurs after December 31, 2019, IPERS' 7.00 percent tables shall be used.

ITEM 47. Renumber subrules **14.3(2)** and **14.3(3)** as **14.3(3)** and **14.3(4)**.

ITEM 48. Adopt the following **new** subrule 14.3(2):

14.3(2) Deceased beneficiary. If a named beneficiary predeceased the member, that beneficiary's share shall be paid to the surviving named beneficiaries in equal shares.

ITEM 49. Amend subrule **16.2(1)**, definition of "Successor alternate payee," as follows:

"*Successor alternate payee*" means a ~~non-spouse~~ person or persons named in a domestic relations order prior to July 1, 2019, to receive the amounts payable to the former spouse alternate payee under the QDRO if the alternate payee dies before the member. Successor alternate payees must be named individuals, not a class of individuals, a trust or an estate.

ITEM 50. Amend subparagraph **16.2(2)"a"(6)** as follows:

(6) Conforms IPERS with IRS reporting requirements for distributions to ~~non-spouse~~ successor alternate payees. ~~The~~ Prior to July 1, 2019, the taxable portion and basis will be prorated to each respective recipient if the payee is the alternate payee. If the payee is a successor alternate payee, the taxable portion and basis will be borne by the member, pursuant to IRC Pub. L. 99-514, 100 Stat. 2085, enacted October 22, 1986. Effective July 1, 2019, a domestic relations order must conform IPERS with IRS reporting requirements for distributions to alternate payees. The taxable portion and basis will be prorated to each respective recipient; and

ITEM 51. Adopt the following **new** subparagraph **16.2(2)"b"(7)**:

(7) Appoints a successor alternate payee after June 30, 2019.

ITEM 52. Amend subparagraph **16.2(2)"c"(3)** as follows:

(3) Bar a vested member from requesting a refund of the member's accumulated contributions without the alternate payee's written consent. If a member applies for a refund, a consent form will be sent to the alternate payee at the address of record at IPERS. The completed consent form must be received by IPERS within 60 days. If returned undeliverable or no response is received, the ~~alternate payee's~~ member's portion of the refund amount will be payable to the member. If returned marked "no consent," the refund will not be payable to either the member or alternate payee;

ITEM 53. Amend subparagraph **16.2(2)"c"(4)** as follows:

(4) Allow benefits to be paid to an alternate payee based on a period of reemployment for a retired member; ~~and.~~

ITEM 54. Rescind subparagraph **16.2(2)"c"(5)**.

ITEM 55. Amend paragraph **16.2(3)"a"** as follows:

a. IPERS uses the shared payment method for payments under a domestic relations order. IPERS will not create a separate account for the alternate payee or any successor alternate payee(s). Payment to the alternate payee (or successor alternate payee(s)) shall be in a lump sum if the member's benefits are paid in a lump sum distribution or as monthly payments if the member's benefits are paid under a retirement option. A member shall not be able to receive an actuarial equivalent (AE) under Iowa Code section 97B.48(1) unless the total benefit payable with respect to that member meets the applicable requirements. All divisions of benefits shall be based on the gross amount of monthly or lump sum benefits payable. Federal and state income taxes shall be deducted from the member's and former spouse alternate payee's respective shares and reported under their respective federal tax identification numbers. Unrecovered basis shall be allocated on a pro rata basis to the member and alternate payee. Federal and state income taxes shall be deducted from the member's gross payment when a ~~non-spouse~~ successor alternate payee(s) receives a payment. Federal and state income taxes shall be reported under the member's federal tax identification number. Unrecovered basis shall be allocated to the member.

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ITEM 56. Amend paragraph **16.2(3)“j”** as follows:

j. IPERS has no duty or responsibility to search for alternate payees. Alternate payees must notify IPERS of any change in their mailing addresses. IPERS shall mail the alternate payee an application once an application for a distribution has been received from the member and considered a complete application by IPERS. ~~The application mailed by IPERS to the alternate payee states that, if the alternate payee does not return the application to IPERS within 60 days after the application is mailed by IPERS, the amounts otherwise payable to the alternate payee shall be paid to the member or the member's beneficiary(ies). If the member applied for a refund, and the alternate payee's application is not received within the 60 days, the alternate payee's share of the member's lump sum refund shall be paid to the member. The alternate payee's only recourse shall be with the member. IPERS shall have no liability to the alternate payee or the member with respect to payment of the alternate payee's share to the member. If the member applies for a monthly pension payment, unless and until a valid application for the alternate payee's share of the monthly pension payments is received and accepted by IPERS, IPERS shall have no liability to the alternate payee with respect to payment of monthly amounts, nor will any retroactive payment be made if and when an application is received and accepted. All monthly payments in this case shall be prospective. For monthly benefit applications, the alternate payee is eligible for monthly payments as of the member's first month of entitlement.~~

ITEM 57. Rescind paragraph **16.2(3)“r.”**

[Filed 2/20/19, effective 4/17/19]

[Published 3/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4338C

MEDICINE BOARD[653]

Adopted and Filed

Rule making related to training requirements for permanent or special license renewal

The Board of Medicine hereby amends Chapter 11, “Continuing Education and Training Requirements,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 272C and 2018 Iowa Acts, House File 2377.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 272C and 2018 Iowa Acts, House File 2377.

Purpose and Summary

This rule making amends the continuing education and training requirements for renewal of an Iowa medical license for chronic pain management and end-of-life care.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 2, 2019, as **ARC 4204C**. A public hearing was held on January 22, 2019, at 10 a.m. at the Board's office, Suite C, 400 S.W. Eighth Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received.

MEDICINE BOARD[653](cont'd)

This rule making has been revised to allow a physician to attest as part of the license renewal process that the licensee is not subject to the training requirement for chronic pain management if the licensee did not prescribe opioids to a patient during the previous licensure cycle.

Adoption of Rule Making

This rule making was adopted by the Board on February 8, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 653—Chapter 3.

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 17, 2019.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of “Opioid” in rule **653—11.1(272C)**:

“*Opioid*” means any FDA-approved product or active pharmaceutical ingredient classified as a controlled substance that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

ITEM 2. Amend subrule 11.4(1) as follows:

11.4(1) Continuing education and training requirements.

a. Continuing education for permanent license or administrative medicine license renewal. Except as provided in these rules, a total of 40 hours of category 1 credit or board-approved equivalent shall be required for biennial renewal of a permanent license or an administrative medicine license. This may include up to 20 hours of credit carried over from the previous license period and category 1 credit acquired within the current license period.

(1) To facilitate license renewal according to birth month, a licensee's first license may be issued for less than 24 months. The number of hours of category 1 credit required of a licensee whose license has been issued for less than 24 months shall be reduced on a pro-rata basis.

(2) A licensee desiring to obtain credit for carryover hours shall report the carryover, not to exceed 20 hours of category 1 credit, on the renewal application.

b. Continuing education for special license renewal. A total of 20 hours of category 1 credit shall be required for annual renewal of a special license. No carryover hours are allowed.

c. Training for identifying and reporting child and dependent adult abuse for permanent or special license renewal. The licensee in Iowa shall complete the training for identifying and reporting child and dependent adult abuse as part of a category 1 credit or an approved training program. The licensee may

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utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.4(1)“a.”

(1) Training to identify child abuse. A licensee who regularly provides primary health care to children in Iowa must complete at least two hours of training in child abuse identification and reporting every five years. “A licensee who regularly provides primary health care to children” means all emergency physicians, family physicians, general practice physicians, pediatricians, and psychiatrists, and any other physician who regularly provides primary health care to children.

(2) Training to identify dependent adult abuse. A licensee who regularly provides primary health care to adults in Iowa must complete at least two hours of training in dependent adult abuse identification and reporting every five years. “A licensee who regularly provides primary health care to adults” means all emergency physicians, family physicians, general practice physicians, internists, obstetricians, gynecologists, and psychiatrists, and any other physician who regularly provides primary health care to adults.

(3) Combined training to identify child and dependent adult abuse. A licensee who regularly provides primary health care to adults and children in Iowa must complete at least two hours of training in the identification and reporting of abuse in dependent adults and children every five years. The training may be completed through separate courses as identified in subparagraphs 11.4(1)“c”(1) and (2) or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. “A licensee who regularly provides primary health care to children and adults” means all emergency physicians, family physicians, general practice physicians, internists, and psychiatrists, and any other physician who regularly provides primary health care to children and adults.

d. Training for chronic pain management for permanent or special license renewal. Rescinded by 2018 Iowa Acts, House File 2377, section 23, effective 7/1/18. The licensee shall complete the training for chronic pain management as part of a category 1 credit. The licensee may utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.4(1)“a.”

(1) A licensee who has prescribed opioids to a patient during the previous license period must complete at least two hours of category 1 credit regarding the United States Centers for Disease Control and Prevention (CDC) guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, every five years. A licensee may attest as part of the license renewal process that the licensee is not subject to the requirement to receive continuing medical education credits pursuant to this paragraph, due to the fact that the licensee did not prescribe opioids to a patient during the previous licensure cycle.

(2) A licensee who had a permanent or special license on January 1, 2019, has until January 1, 2024, to complete the chronic pain management training and shall then complete the training once every five years thereafter.

e. Training for end-of-life care for permanent or special license renewal. The licensee shall complete the training for end-of-life care as part of a category 1 credit. The licensee may utilize category 1 credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.4(1)“a.”

(1) A licensee who regularly provides ~~primary health~~ direct patient care to actively dying patients in Iowa must complete at least two hours of category 1 credit for end-of-life care every five years. “A licensee who regularly provides primary health care to patients” means all emergency physicians, family physicians, general practice physicians, internists, neurologists, pain medicine specialists, psychiatrists, and any other physician who regularly provides primary health care to patients.

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(2) A licensee who had a permanent or special license on ~~August 17, 2011~~ January 1, 2019, has until ~~August 17, 2016~~ January 1, 2024, to complete the end-of-life care training, and shall then complete the training once every five years thereafter.

[Filed 2/14/19, effective 4/17/19]

[Published 3/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4339C

MEDICINE BOARD[653]

Adopted and Filed

Rule making related to genetic counselors

The Board of Medicine hereby adopts new Chapter 20, "Licensure of Genetic Counselors," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 148H.6 and chapters 147, 148 and 272C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 148, 148H and 272C.

Purpose and Summary

This rule making adopts new Chapter 20, which establishes licensure of genetic counselors.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 24, 2018, as **ARC 4095C**. A public hearing was held on November 20, 2018, at 11 a.m. at the Board's office, Suite C, 400 S.W. Eighth Street, Des Moines, Iowa. No one attended the public hearing.

The Iowa Genetic Counselors Network expressed concerns about the licensure application process, and the Board worked with representatives of the Network to revise the rules to the Network's satisfaction. The Board revised the rules pertaining to the application process to better reflect the profession of genetic counselors. The Board also added greater detail to the grounds for discipline in rule 653—20.20(147,148H,272C).

References to 2018 Iowa Acts, Senate File 2228, have been replaced with references to the appropriate codified sections of Iowa Code chapter 148H.

Adoption of Rule Making

This rule making was adopted by the Board on February 8, 2019.

Fiscal Impact

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

Jobs Impact

This rule making will likely increase the pool of genetic counselors and increase access to genetic counseling services in Iowa. It will likely have a positive jobs impact, which is difficult to measure at this time.

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Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, pursuant to 653—Chapter 3.

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 17, 2019.

The following rule-making action is adopted:

Adopt the following **new** 653—Chapter 20:

CHAPTER 20
LICENSURE OF GENETIC COUNSELORS

653—20.1(148H) Purpose. The licensure of genetic counselors is established to ensure that practitioners are qualified to provide to Iowans genetic counseling with reasonable skill and safety. The provisions of Iowa Code chapters 147, 148H, and 272C authorize the board of medicine to establish eligibility requirements for licensure, evaluate the credentials of applicants for licensure, issue licenses to qualified applicants, institute continuing education requirements, investigate complaints and reports alleging that licensed genetic counselors have violated statutes and rules governing the practice of genetic counseling, make available participation in the Iowa physician health program, and discipline licensed genetic counselors found guilty of infractions as provided in state law and board rules.

653—20.2(148H) Scope of chapter. This chapter shall not be construed to apply to any of the following:

1. A physician or surgeon or an osteopathic physician or surgeon licensed under Iowa Code chapter 148, a registered nurse or an advanced registered nurse practitioner licensed under Iowa Code chapter 152, a physician assistant licensed under Iowa Code chapter 148C, or other persons licensed under Iowa Code chapter 147 when acting within the scope of the person's profession and doing work of a nature consistent with the person's education and training.
2. A person who is certified by the American Board of Medical Genetics and Genomics as a doctor of philosophy and is not a genetic counselor licensed pursuant to Iowa Code chapter 148H.
3. A person employed as a genetic counselor by the federal government or an agency thereof if the person provides genetic counseling services solely under the direction and control of the entity by which the person is employed.
4. A genetic counseling intern.

653—20.3(148H) Definitions.

“Active candidate status” means a person has met the requirements established by the American Board of Genetic Counseling to take the American Board of Genetic Counseling certification examination in general genetics and genetic counseling and has been granted this designation by the American Board of Genetic Counseling.

“American Board of Genetic Counseling” or *“ABGC”* means the United States-based commission, or its equivalent or successor organization, that validates entry-level competency in the practice of genetic counseling through professional certification.

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“*American Board of Medical Genetics and Genomics*” or “*ABMGG*” means the United States-based commission, or its equivalent or successor organization, that validates entry-level competency in the practice of genetic counseling through professional certification.

“*Board*” means the board of medicine.

“*Committee*” means the licensure committee of the board.

“*Genetic counseling*” means the provision of services by a person who qualifies for a license under Iowa Code chapter 148H.

“*Genetic counseling intern*” means a student enrolled in a genetic counseling program accredited by the accreditation council for genetic counseling or the American Board of Medical Genetics and Genomics.

“*Genetic counselor*” means a person who is licensed under Iowa Code chapter 148H to engage in the practice of genetic counseling.

“*Qualified supervisor*” means any person who is a genetic counselor licensed under Iowa Code chapter 148H, a physician licensed under Iowa Code chapter 148, or an advanced registered nurse practitioner licensed under Iowa Code chapter 152.

“*Supervision*” means supervision by a qualified supervisor who has the overall responsibility of assessing the work of a provisional licensee, provided that an annual supervision contract signed by the qualified supervisor and the provisional licensee is on file with both parties. “Supervision” does not require the qualified supervisor’s presence during the performance of services.

653—20.4(148H) Scope of practice. A person licensed pursuant to Iowa Code chapter 148H may do any of the following:

1. Obtain and evaluate individual, family, and medical histories to determine genetic risk for genetic and medical conditions and diseases in a patient, the patient’s offspring, and other family members.

2. Discuss the features, history, means of diagnosis, genetic and environmental factors, and management of risk for genetic and medical conditions and diseases.

3. Identify, order, and coordinate genetic laboratory tests and other diagnostic studies as appropriate for the genetic assessment of a patient.

4. Refer a patient to a specialty or subspecialty department as necessary for the purpose of collaborating on diagnosis and treatment involving multiple body systems and general medical management.

5. Integrate genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic and medical conditions and diseases.

6. Explain the clinical implications of genetic laboratory tests and other diagnostic studies and their results.

7. Evaluate the responses of a patient or patient’s family to the condition or risk of recurrence and provide patient-centered genetic counseling and anticipatory guidance.

8. Identify and utilize community resources that provide medical, educational, financial, and psychosocial support and advocacy.

9. Provide written documentation of medical, genetic, and counseling information for families and health care professionals.

653—20.5(148H) Titles used. A genetic counselor licensed under Iowa Code chapter 148H may use the words “genetic counselor” or “licensed genetic counselor” or the corresponding abbreviation “LGC” after the person’s name. Persons who possess a provisional license shall add the designation “provisional licensed genetic counselor.”

653—20.6(148H) Qualifications for licensure.

20.6(1) Each applicant for licensure under Iowa Code chapter 148H shall:

- a. Submit an application form and supporting documentation as prescribed by the board.

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b. Hold active certification as a genetic counselor by the American Board of Genetic Counseling, as a genetic counselor by the American Board of Medical Genetics and Genomics, or as a medical geneticist by the American Board of Medical Genetics and Genomics, or the successor to any of the aforementioned organizations.

20.6(2) A licensee shall maintain active certification as a genetic counselor by the American Board of Genetic Counseling, as a genetic counselor by the American Board of Medical Genetics and Genomics, or as a medical geneticist by the American Board of Medical Genetics and Genomics, or the successor to any of the aforementioned organizations.

653—20.7(148H) Qualifications for provisional licensure. The board may issue a provisional license to an applicant who meets all of the requirements for licensure except for the certification component and who has been granted active candidate status by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics.

20.7(1) The applicant shall submit a provisional license application form, proof of active candidate status, and supporting documentation prescribed by the board.

20.7(2) A provisional license shall expire and become inactive upon the earliest of the following:

a. Issuance of a license as a genetic counselor by the board.

b. Loss of active candidate status.

(1) A person holding a provisional license which is inactive due to loss of active candidate status may submit an application for reactivation of the provisional license upon demonstrating that active candidate status has been reestablished.

(2) An application for extension of a provisional license shall be signed by a qualified supervisor.

c. The date printed on the provisional license.

20.7(3) A person with a provisional license shall work at all times under the supervision of a qualified supervisor.

653—20.8(147,148H) Application requirements.

20.8(1) *Application for licensure.* To apply for a license to practice genetic counseling, an applicant shall:

a. Submit the completed application form provided by the board, including required credentials and documents, a completed fingerprint packet and a sworn statement by the applicant attesting to the truth of all information provided by the applicant;

b. Pay the nonrefundable initial application fee identified in 653—paragraph 8.14(2) “a” and pay the fee identified in 653—paragraph 8.14(2) “f” for the evaluation of the fingerprint packet and the national criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

20.8(2) *Contents of the application form.* Each applicant shall submit the following information on the application form provided by the board:

a. The applicant’s full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board;

b. A photograph of the applicant suitable for positive identification;

c. A chronology accounting for all time periods from the date the applicant entered a genetic counseling training program or educational institution to the date of the application;

d. The other jurisdictions in the United States or other nations or territories in which the applicant is authorized to practice genetic counseling, including license, certificate of registration or certification number and date of issuance;

e. Full disclosure of the applicant’s involvement in civil litigation related to the practice of genetic counseling in any jurisdiction of the United States or other nations or territories. Copies of the legal documents may be requested if needed during the review process;

f. A statement disclosing and explaining any informal or nonpublic actions, warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal

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action, by a medical, genetic counseling or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction;

g. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

h. A letter sent directly from the ABGC or ABMGG to the board verifying the applicant holds active certification in genetic counseling by the ABGC or ABMGG for genetic counselor licensure or proof of active candidate status for provisional licensure;

i. A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in the practice of genetic counseling and provide patients with safe and healthful care; and

j. A completed fingerprint packet to facilitate a national criminal history background check. The fee for evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

20.8(3) Application cycle. If the applicant does not submit all materials, including a completed fingerprint packet, within 90 days of the board's initial request for further information, the application shall be considered inactive. The board office shall notify the applicant of this change in status.

a. To reactivate the application, an applicant shall submit a nonrefundable reactivation of application fee identified in 653—paragraph 8.14(2)“*b*” and shall update application materials if requested by the board. The period for requesting reactivation is limited to 30 days from the date the applicant is notified that the application is inactive, unless the applicant is granted an extension in writing by the committee or the board.

b. Once the application reactivation period is expired, an applicant must reapply and submit a new, nonrefundable initial application fee and a new application, including required documents and credentials.

20.8(4) Applicant responsibilities. An applicant for licensure to practice genetic counseling bears full responsibility for each of the following:

a. Paying all fees charged by regulatory authorities, national testing or credentialing organizations, health facilities, and educational institutions providing the information specified in subrule 20.8(2);

b. Providing accurate, up-to-date, and truthful information on the application form including, but not limited to, that specified under subrule 20.8(2) related to prior professional experience, education, training, active certification, licensure or registration, and disciplinary history.

20.8(5) Licensure application review process. A process established by the board shall be utilized to review each application. Priority shall be given to processing a licensure application when a written request is received in the board office from an applicant whose practice will primarily involve provision of services to underserved populations, including but not limited to persons who are minorities or low-income or who live in rural areas.

a. An application for initial licensure shall be considered open from the date the application form is received in the board office with the nonrefundable initial application fee.

b. After reviewing each application, staff shall notify the applicant about how to resolve any problems identified by the reviewer. An applicant shall provide additional information when requested by staff or the board.

c. If the final review indicates that the application is complete and that the application does not raise any questions or concerns regarding the applicant's qualifications for licensure, staff may administratively issue the license. Staff may issue the license without having received a report on the applicant from the FBI.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, the director of licensure and the director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff shall administratively issue the license.

(2) If there are questions or concerns, an Iowa-licensed genetic counselor may be consulted.

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(3) If any concern exists, staff shall refer the application to the committee.

e. Staff shall refer to the committee for review matters which include, but are not limited to, falsification of information on the application, criminal record, malpractice, substance abuse, competency, physical or mental illness, or professional disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to issue the license administratively.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) If an applicant has not engaged in the field of genetic counseling in the past three years in any jurisdiction of the United States, require an applicant to:

1. Successfully complete board-approved continuing education or remediation;

2. Successfully complete a board-approved employment-based monitoring program developed by the genetic counselor's employer, an Iowa-licensed genetic counselor and the board;

3. Successfully complete any other pathway as agreed upon by the board;

(4) Issue a license;

(5) Issue a license under certain terms and conditions or with certain restrictions;

(6) Request that the applicant withdraw the licensure application; or

(7) Deny a license.

h. The board shall consider applications and recommendations from the committee and shall:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) If an applicant has not engaged in the field of genetic counseling in the past three years in any jurisdiction of the United States, require an applicant to:

1. Successfully complete board-approved continuing education or remediation;

2. Successfully complete a board-approved employment-based monitoring program developed by the genetic counselor's employer, an Iowa-licensed genetic counselor and the board;

3. Successfully complete any other pathway as agreed upon by the board;

(4) Issue a license;

(5) Issue a license under certain terms and conditions or with certain restrictions;

(6) Request that the applicant withdraw the licensure application; or

(7) Deny a license. The board may deny a license for any grounds on which the board may discipline a license.

20.8(6) *Grounds for denial of licensure.* The board, on the recommendation of the committee, may deny an application for licensure for any of the following reasons:

a. Failure to meet the requirements for licensure specified in this chapter pursuant to Iowa Code section 148H.3.

b. Pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55 and 148H.7 or in rule 653—20.20(147,148H,272C).

20.8(7) *Preliminary notice of denial.* Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that shall be sent to the applicant by regular, first-class mail at the address provided by the applicant. The preliminary notice of denial is a public record and shall cite the factual and legal basis for denying the application, notify the applicant of the appeal process, and specify the date upon which the denial will become final if it is not appealed.

20.8(8) *Appeal procedure.* An applicant who has received a preliminary notice of denial may appeal the denial and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the preliminary notice of denial was mailed. The applicant's current address shall be provided in the request for hearing. The request is deemed filed on the date it is received in the board office. If the request is received with a USPS nonmetered postmark, the board shall consider the postmark date as

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the date the request is filed. The request shall specify the factual or legal errors and that the applicant desires an evidentiary hearing and may provide additional written information or documents in support of licensure.

20.8(9) *Hearing.* If an applicant appeals the preliminary notice of denial and requests a hearing, the hearing shall be a contested case and subsequent proceedings shall be conducted in accordance with rule 653—25.30(17A).

- a. License denial hearings are contested cases open to the public.
- b. Either party may request issuance of a protective order in the event privileged or confidential information is submitted into evidence.
- c. Evidence supporting the denial of the license may be presented by an assistant attorney general.
- d. While each party shall have the burden of establishing the affirmative of matters asserted, the applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure.
- e. The board, after a hearing on license denial, may issue or deny the license. The board shall state the reasons for its decision and may issue the license, issue the license with restrictions, or deny the license. The final decision is a public record.
- f. Judicial review of a final order of the board denying licensure, or issuing a license with restrictions, may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of any agency's final decision in a contested case.

20.8(10) *Finality.* If an applicant does not appeal a preliminary notice of denial in accordance with subrule 20.8(8), the preliminary notice of denial automatically becomes final. A final denial of an application for licensure is a public record.

20.8(11) *Failure to pursue appeal.* If an applicant appeals a preliminary notice of denial in accordance with subrule 20.8(8) but the applicant fails to pursue that appeal to a final decision within one year from the date of the preliminary notice of denial, the board may dismiss the appeal. The appeal may be dismissed only after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice shall state that the appeal will be dismissed and the preliminary notice of denial will become final if the applicant does not contact the board to schedule the appeal hearing within 30 days of the date the letter is mailed from the board office. Upon dismissal of an appeal, the preliminary notice of denial becomes final. A final denial of an application for licensure under this rule is a public record.

20.8(12) *Waiver or variance prohibited.* Provisions of this rule are not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law.

653—20.9(147,148H) Display of license and notification required to change the board's data system.

20.9(1) *Display of license.* Licensed genetic counselors shall display the license issued by the board in a conspicuous place in their primary place of business.

20.9(2) *Change of contact information.* Licensees shall notify the board within one month of a change in home address, address of the place of practice, home or practice telephone number, or personal email address regularly used by the applicant or licensee for correspondence with the board.

20.9(3) *Change of full legal name.* A licensee shall notify the board of any change in the licensee's full legal name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

20.9(4) *Deceased.* A licensee's file shall be closed and labeled "deceased" when the board receives a copy of the licensee's death certificate or other reliable information of the licensee's death.

653—20.10(147,148H,272C) Biennial renewal of license required. Pursuant to Iowa Code section 148H.3, a license expires on October 31 of odd-numbered years and can be renewed for the fee identified in 653—paragraph 8.14(2) "c."

20.10(1) The applicant for renewal shall provide:

- a. A renewal application provided by the board.

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b. A letter sent directly from the ABGC or ABMGG to the board verifying that the applicant holds active certification in genetic counseling by the ABGC or ABMGG for genetic counselor licensure or proof of active candidate status for provisional licensure.

c. Satisfactory evidence to the board that in the period since the license was issued or last renewed, the applicant has completed 30 hours of National Society of Genetic Counselors or ABMGG continuing education units as approved by the board.

20.10(2) Expiration date. Certificates of licensure to practice genetic counseling shall expire on October 31 in odd years.

20.10(3) Prorated fees. The first renewal fee for a license shall be prorated on a monthly basis according to the date of issue.

20.10(4) Renewal requirements and penalties for late renewal. Each licensee shall be sent a renewal notice at least 60 days prior to the expiration date. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of responsibility for renewing that license.

a. When online renewal is used, the licensee must complete the online renewal prior to midnight on December 31 in order to ensure that the license will not become inactive. The license becomes inactive and invalid at 12:01 a.m. on January 1.

b. Upon receipt of the completed renewal application, staff shall administratively issue a license that expires on October 31 of odd-numbered years. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration.

c. Every renewal shall be displayed in connection with the original certificate of licensure.

d. If the licensee fails to submit the renewal application and renewal fee prior to the expiration date on the current license, a penalty fee identified in 653—paragraph 8.14(2)“d” shall be assessed for renewal in the grace period, a period up until January 1 when the license becomes inactive if not renewed.

20.10(5) Inactive license. Failure of a licensee to renew by January 1 will result in invalidation of the license, and the license will become inactive.

a. Licensees are prohibited from engaging in the practice of genetic counseling once the license is inactive.

b. Having a genetic counselor license in inactive status does not preclude the board from taking disciplinary actions authorized in Iowa Code section 147.55 or 148H.7.

653—20.11(147,272C) Reinstatement of an inactive license.

20.11(1) Reinstatement requirements. Licensees who allow their licenses to go inactive by failing to renew may apply for reinstatement of a license. Pursuant to Iowa Code section 147.11, applicants for reinstatement shall:

a. Submit upon forms provided by the board a completed application for reinstatement of a license to practice genetic counseling. The application shall include the following information:

(1) The applicant’s full legal name, date and place of birth, home address, mailing address, principal business address, and personal email address regularly used by the applicant or licensee for correspondence with the board.

(2) Every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

(3) Full disclosure of the applicant’s involvement in civil litigation related to the practice of genetic counseling in any jurisdiction of the United States or other nations or territories. Copies of the legal documents may be requested if needed during the review process.

(4) A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, genetic counseling or professional regulatory authority; an educational institution; a training or research program; or a health facility in any jurisdiction.

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(5) A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in practice and provide patients with safe and healthful care.

(6) Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board.

(7) A chronology accounting for all time periods from the date of initial licensure.

(8) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

b. Submit a completed fingerprint packet to facilitate a national criminal history background check. The fee identified in 653—paragraph 8.14(2) “*f*” for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

c. Pay the reinstatement fee identified in 653—paragraph 8.14(2) “*g*” plus the fee identified in 653—paragraph 8.14(2) “*f*” for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

d. Provide a certificate which demonstrates that the applicant holds active certification in genetic counseling by ABGC or ABMGG.

e. Meet any new requirements instituted since the license lapsed.

20.11(2) Reinstatement for an applicant who has been out of practice for three years. If an applicant has not engaged in the field of genetic counseling in the past three years in any jurisdiction of the United States, the board may require an applicant to:

a. Successfully complete board-approved continuing education or remediation.

b. Successfully complete a board-approved employment-based monitoring program developed by the genetic counselor's employer, an Iowa-licensed genetic counselor and the board.

c. Successfully complete any other pathway as agreed upon by the board.

653—20.12(272C) Code of ethics. The NSGC Code of Ethics prepared and approved by the National Society of Genetic Counselors shall be utilized by the board as guiding principles in the practice of genetic counseling in this state.

653—20.13(272C) Nonpayment of state debt. 653—Chapter 12 shall apply to licensed genetic counselors.

653—20.14(272C) Standards of practice—office practices. Rule 653—13.7(147,148,272C) shall apply to licensed genetic counselors.

653—20.15(272C) Iowa physician health committee. 653—Chapter 14 shall apply to licensed genetic counselors.

653—20.16(272C) Child support noncompliance. 653—Chapter 15 shall apply to licensed genetic counselors.

653—20.17(272C) Student loan default or noncompliance. 653—Chapter 16 shall apply to licensed genetic counselors.

653—20.18(272C) Military service and veteran reciprocity. 653—Chapter 18 shall apply to licensed genetic counselors.

653—20.19(272C) Mandatory reporting. 653—Chapter 22 shall apply to licensed genetic counselors.

653—20.20(147,148H,272C) Grounds for discipline of genetic counselors. The board has authority to impose discipline for any violation of Iowa Code chapter 147, 148H, or 272C or the rules promulgated thereunder. These grounds for discipline apply to genetic counselors. This rule is not subject to waiver

MEDICINE BOARD[653](cont'd)

or variance pursuant to 653—Chapter 3 or any other provision of law. The board may impose any of the disciplinary sanctions set forth in 653—subrule 25.25(1), when the board determines that the licensee is guilty of any of the following acts or offenses:

20.20(1) Violating any of the grounds for revocation or suspension of a license as listed in Iowa Code section 147.55, 148H.7, or 272C.10.

20.20(2) Professional incompetency. Professional incompetency includes, but is not limited to, any of the following:

- a. Willful or repeated gross malpractice;
- b. Willful or gross negligence;
- c. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the genetic counselor's practice;
- d. A substantial deviation by the genetic counselor from the standards of learning or skill ordinarily possessed and applied by other genetic counselors in the state of Iowa acting in the same or similar circumstances;
- e. A failure by a genetic counselor to exercise in a substantial respect that degree of care which is ordinarily exercised by an average genetic counselor in the state of Iowa acting in the same or similar circumstances;

f. A willful or repeated departure from or failure to conform to the minimal standard of acceptable and prevailing practice of genetic counseling in the state of Iowa.

20.20(3) Practice harmful or detrimental to the public. Practice harmful or detrimental to the public includes, but is not limited to, the failure of the genetic counselor to possess and exercise that degree of skill, learning, and care expected of a reasonable, prudent genetic counselor acting in the same or similar circumstances in this state, or when a genetic counselor is unable to practice genetic counseling with reasonable skill and safety as a result of mental or physical impairment, or chemical abuse.

20.20(4) Unprofessional conduct. Engaging in unprofessional conduct includes, but is not limited to, the committing by a licensee of an act contrary to honesty, justice, or good morals, whether the act is committed in the scope of the licensee's practice or otherwise, and whether the act is committed in this state or elsewhere; or a violation of the principles of ethics applicable to genetic counselors.

20.20(5) Sexual misconduct. Engaging in sexual misconduct includes, but is not limited to, a genetic counselor engaging in conduct set forth in 653—subrule 13.7(4) (sexual conduct) or 13.7(6) (sexual harassment) as interpreted by the board.

20.20(6) Substance abuse. Substance abuse includes, but is not limited to, excessive use of alcohol, drugs, narcotics, chemicals, or other substances in a manner which may impair a licensee's ability to practice the profession with reasonable skill and safety.

20.20(7) Physical or mental impairment. Physical or mental impairment includes, but is not limited to, any physical, neurological, or mental condition which may impair a genetic counselor's ability to practice the profession with reasonable skill and safety. Being adjudicated mentally incompetent by a court of competent jurisdiction shall automatically suspend a license for the duration of the license unless the board orders otherwise.

20.20(8) Felony criminal conviction. Being convicted of a felony in the courts of this state, another state, the United States, or any country, territory, or jurisdiction, as defined in Iowa Code section 148.6(2) "b."

20.20(9) Violation of the laws or rules governing the practice of genetic counseling in this state, another state, the United States, or any country, territory, or jurisdiction. Violation of the laws or rules governing the practice of genetic counseling includes, but is not limited to, willful or repeated violation of the provisions of these rules or the provisions of Iowa Code chapter 147, 148H, or 272C or any other state or federal laws governing the practice of genetic counseling.

20.20(10) Violation of a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violation of the terms and provisions of a consent agreement or settlement agreement entered into between a licensee and the board.

20.20(11) Violation of an initial agreement or health contract entered into with the Iowa physician health program (IPHP).

MEDICINE BOARD[653](cont'd)

20.20(12) Failure to comply with an evaluation order under Iowa Code section 272C.9(1).

20.20(13) Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of genetic counseling. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of genetic counseling includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, by a genetic counselor in the practice of genetic counseling.

20.20(14) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice genetic counseling in this state, and includes false representations of material fact, either by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board any false or forged document submitted with an application for license in this state.

20.20(15) Fraud in representations as to skill or ability. Fraud in representations as to skill or ability includes, but is not limited to, a licensee's having made misleading, deceptive, or untrue representations as to the genetic counselor's competency to perform professional services for which the licensee is not qualified to perform by education, training, or experience.

20.20(16) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making known to the public information which is false, deceptive, misleading, or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

- a. Inflated or unjustified claims which lead to expectations of favorable results;
- b. Self-laudatory claims that imply that the licensee is skilled in a field or specialty for which the licensee is not qualified;
- c. Representations that are likely to cause an average person to misunderstand; or
- d. Extravagant claims or claims of extraordinary skill not recognized by the profession of genetic counseling.

20.20(17) Obtaining any fee by fraud or misrepresentation.

20.20(18) Acceptance of remuneration for referral of a patient to other health professions in violation of the law or National Society of Genetic Counselors Code of Ethics.

20.20(19) Knowingly submitting a false report of continuing education or failure to submit the required reports of continuing education.

20.20(20) Knowingly aiding, assisting, procuring, or advising a person in the unlawful practice of genetic counseling.

20.20(21) Failure to report disciplinary action. Failure to report a license revocation, suspension, or other disciplinary action taken against a licensee by a professional licensing authority of another state, an agency of the United States government, or any country, territory, or other jurisdiction, within 30 days of final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

20.20(22) Failure to report voluntary agreements. Failure to report any voluntary agreement to restrict the practice of genetic counseling entered into with this state, another state, the United States, an agency of the federal government, or any country, territory or other jurisdiction.

20.20(23) Failure to notify the board within 30 days after occurrence of any settlement or adverse judgment of a malpractice claim or action.

20.20(24) Failure to comply with a valid subpoena issued by the board pursuant to Iowa Code sections 17A.13 and 272C.6.

20.20(25) Failure to submit to a board-ordered mental, physical, clinical competency, or substance abuse evaluation or a drug or alcohol screening.

20.20(26) Noncompliance with a support order or with a written agreement for payment of support as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 252J. Disciplinary proceedings under this rule shall follow the procedures set forth in Iowa Code chapter 252J and 653—Chapter 15.

MEDICINE BOARD[653](cont'd)

20.20(27) Student loan default or noncompliance with an agreement for payment of a student loan obligation as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 261 and rule 653—16.2(261).

20.20(28) Improper management of medical records. Improper management of medical records includes, but is not limited to, failure to maintain timely, accurate, and complete medical records.

20.20(29) Failure to respond to or comply with a board investigation initiated pursuant to Iowa Code section 272C.3 and rule 653—24.2(17A,147,148,272C).

20.20(30) Failure to submit an additional completed fingerprint card and applicable fee, within 30 days of a request made by board staff, when a previous fingerprint submission has been determined to be unacceptable.

20.20(31) Failure to respond to the board or submit continuing education materials during a board audit, within 30 days of a request made by board staff or within the extension of time if one has been granted.

20.20(32) Failure to respond to the board or submit requested mandatory training for identifying and reporting abuse materials during a board audit, within 30 days of a request made by the board staff or within the extension of time if one has been granted.

20.20(33) Nonpayment of state debt as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 272D and 653—Chapter 12.

20.20(34) Failure to file with the board a written report and a copy of the hospital disciplinary action within 30 days of any hospital disciplinary action or the licensee's voluntary action to avoid a hospital disciplinary action, as required by rule 653—22.5(272C).

653—20.21(272C) Complaints and investigations. 653—Chapter 24 shall apply to licensed genetic counselors.

653—20.22(272C) Contested case proceedings. 653—Chapter 25 shall apply to licensed genetic counselors.

653—20.23(272C) Reinstatement after disciplinary action. 653—Chapter 26 shall apply to licensed genetic counselors.

653—20.24(148H,272C) Surrender of license to the board.

20.24(1) A genetic counselor whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the board shall promptly surrender the original license to the board.

20.24(2) A genetic counselor whose ABGC certification has lapsed or whose certification has been revoked by the ABGC shall surrender the genetic counselor's license to the board.

20.24(3) A provisional licensee who loses active candidate status with the ABGC must immediately cease the practice of genetic counseling until the provisional licensee obtains an extension of the provisional license or obtains a new provisional license.

653—20.25(147,148H,272C) Waiver or variance prohibited. Fees in this chapter are not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law.

These rules are intended to implement Iowa Code chapters 147, 148, 148H, and 272C.

[Filed 2/14/19, effective 4/17/19]

[Published 3/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4348C**SECRETARY OF STATE[721]****Adopted and Filed****Rule making related to nominations by write-in votes**

The Secretary of State hereby amends Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 43.66.

Purpose and Summary

This rule making rescinds rule 721—21.602(43) relating to nominations by write-in votes for certain offices in a primary election. This rule making is made at the direction and with the guidance of the Attorney General’s office.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 16, 2019, as **ARC 4222C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Secretary of State on February 20, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on April 17, 2019.

SECRETARY OF STATE[721](cont'd)

The following rule-making action is adopted:

Rescind and reserve rule **721—21.602(43)**.

[Filed 2/22/19, effective 4/17/19]

[Published 3/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4340C

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Adopted and Filed

Rule making related to funding rates for eligible soil and water protection practices

The Soil Conservation and Water Quality Division hereby amends Chapter 10, "Iowa Financial Incentive Program for Soil Erosion Control," and Chapter 12, "Water Protection Practices—Water Protection Fund," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 161A.4(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 161A.2.

Purpose and Summary

These amendments increase the eligible total cost from \$450 to \$600 for tree planting and related activities, from \$1,500 to \$1,600 for windbreaks, and from \$450 to \$600 for field windbreaks. Other technical updates are made.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 16, 2019, as **ARC 4235C**. One comment was received during the public comment period. The commenter asked why Item 1 rescinds the definition of "edge-of-field practice" in rule 27—10.20(161A). No changes to the proposed rule making were suggested. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Division on February 21, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 27—Chapter 8.

SOIL CONSERVATION AND WATER QUALITY DIVISION[27](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 17, 2019.

The following rule-making actions are adopted:

ITEM 1. Rescind the definition of "Edge-of-field practice" in rule **27—10.20(161A)**.

ITEM 2. Amend subparagraph **10.60(1)“b”(1)**, introductory paragraph, as follows:

(1) Fifty percent of the actual cost, not to exceed ~~\$450~~ \$600 per acre, including the following:

ITEM 3. Amend subparagraph **10.60(1)“b”(2)** as follows:

(2) Fifty percent of the actual cost, not to exceed \$150 per acre, for ~~wøød~~ woody plant competition control.

ITEM 4. Amend subrules 12.84(1) and 12.84(2) as follows:

12.84(1) Windbreaks. 75 percent of the eligible or estimated cost, whichever is less, not to exceed ~~\$1500~~ \$1,600 for the total cost of the establishment or restoration of the windbreak.

12.84(2) Field windbreaks. 75 percent of the eligible or estimated cost, whichever is less, not to exceed ~~\$450~~ \$600 per acre for the total cost of the establishment or restoration of the field windbreak.

ITEM 5. Amend paragraph **12.84(7)“c,”** introductory paragraph, as follows:

c. 75 percent of the eligible or estimated cost, whichever is less, not to exceed ~~\$450~~ \$600 per acre, for plantation replanting including the following:

[Filed 2/21/19, effective 4/17/19]

[Published 3/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4341C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to purchasing practices and processes

The Department of Transportation hereby amends Chapter 20, "Procurement of Equipment, Materials, Supplies and Services," and Chapter 25, "Competition with Private Enterprise," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 8A.302(1); section 8A.311(20) as amended by 2018 Iowa Acts, Senate File 2416, section 25; and sections 23A.2, 73.15 to 73.21, 307.12 and 307.21.

TRANSPORTATION DEPARTMENT[761](cont'd)

Purpose and Summary

This rule making amends Chapter 20 to update the rules to reflect current purchasing practices, add definitions, and clarify the procurement and professional and technical services consultant selection process. Professional and technical services contracts may be procured in two manners:

- First, by way of the general purchasing process where contracts are awarded competitively with cost as a factor.
- Second, by awarding a professional and technical services contract based on the qualifications of the vendor, with contract costs being negotiated after the selection of a vendor.

Chapter 20 incorrectly addresses only professional and technical services contracts as qualification-based contracts. This rule making establishes wording to distinguish between both types of scenarios listed above.

The amendments also modify the qualification-based awards process to remove the prequalification wording and insert registration requirements. These amendments are proposed because evaluation for prequalification will occur once the vendor has been selected for consideration. This evaluation will allow the Department to prequalify only those vendors considered for award versus trying to qualify all vendors who registered.

The following further explains the amendments to Chapter 20. The amendments:

- Clarify that this chapter also applies to procurements financed with other program funds authorized for Department use. Current rule 761—20.1(307) omits purchases procured from other program funds the Department is responsible for administering. It is the intent of the Department that all procurements, regardless of fund, follow the procedures as outlined in this chapter.

- Rescind existing rule 761—20.2(307) and adopt new rule 761—20.2(307) concerning definitions. The amendments make the following changes to this rule:

- Correct the formatting, retain existing definitions, and modify the definition of “methods of procurement” to include updated references to “solicitations” and “responses.”

- Add the terms “bidder,” “response,” and “solicitation” to update the rule language for situations involving quotations, bids and proposals. Current rule language addresses a purchase only as an opportunity to bid; it does not include the opportunity to propose or offer.

- Add a new definition of “professional and technical services” to identify the two types of “professional and technical services” situations in which a contract is awarded: first, by way of general purchasing processes where contracts are awarded competitively with cost as a factor (outlined in rules 761—20.3(307) through 761—20.5(307) and new rule 761—20.6(307)). Second, a professional and technical services contract may be awarded based on qualifications of the vendor, with contract costs being negotiated after the selection of a vendor (outlined in renumbered rule 761—20.10(307)). Both are professional and technical services contracts, awarded in different manners. The definition of “professional and technical services” was inserted to define the term as applying to both types of contracts awarded in differing manners as defined by the rules referenced.

- Amend subrule 20.3(3) concerning the negotiation method of procurement to:

- Add a new paragraph to state that the negotiation method of procurement may be used when cost is one of many factors considered to determine the award. This amendment acknowledges there are several factors which can be used to determine an award which is in the best interest of the state.

- Add terminology to reflect current purchasing practices.

- Update rules to include the terms “bidder,” “response” and “solicitation.”

- Amend rule 761—20.4(307) to:

- Correct the state agency responsible for certifying targeted small businesses for eligibility and participation in the program as a result of 2017 Iowa Acts, chapter 160, section 5. The Iowa Economic Development Authority is now responsible for certification instead of the Iowa Department of Inspections and Appeals.

- Revise the rule to use updated and consistent terminology, include electronic means of communication where applicable, and remove an outdated communication mode.

TRANSPORTATION DEPARTMENT[761](cont'd)

o Make changes to state that the protest must be in writing and must be received by the director of purchasing within seven days after the contract award has been posted. This amendment is intended to clearly identify an award date and to indicate that protests could be filed within seven days of that date. The current rule states that “a written protest must be received by the director of purchasing at least three days prior to the posting of the recommended contract award.” Vendors do not know for sure when the Department is going to “make an award” as it could be anytime up until the final deadline. Vendors could easily miss the three-day window of opportunity. The amendment clarifies the deadline for the submission of the protest based on a known date and to state the contract terms may provide for liquidated damages to be assessed for any other reason as specified in the contract.

o Incorporate the amendment to Iowa Code section 8A.311(20) made by 2018 Iowa Acts, Senate File 2416, section 25, which added new language requiring the purchase of certain vehicles to be awarded to the lowest responsive and responsible bidder based solely on bid price.

- Amend rule 761—20.5(307) to reflect current purchasing practices, include the terms “solicitation” and “response,” and allow for submission of responses electronically using a variety of modes of submission to accommodate current technologies.

- Add rule 761—20.6(307) concerning professional and technical services procured through the purchasing procurement process outlined in rules 761—20.3(307) through 761—20.5(307). Rule 761—20.6(307) is added to identify procedures related to professional and technical services contracts awarded through the procurement process when cost is a factor. This process is separate from the process of an award based on qualifications as outlined in renumbered rule 761—20.10(307) and therefore requires the Department to establish a new rule to address this situation. Previously, this process was interpreted to be part of renumbered rule 761—20.10(307), which was incorrect.

- Move the content of current subrule 20.8(7) concerning sole source or emergency selection to new rule 761—20.7(307) and move the content of current subrule 20.8(11) concerning conflicts with federal requirements to new rule 761—20.8(307) because both of these rules apply to all contracts covered by Chapter 20 and not just to rules that were previously included under current rule 761—20.8(307), which is now renumbered rule 761—20.10(307). The amendment also removes qualification wording and adds wording related to work categories and satisfactory completion. The prequalification wording was replaced with registration requirements because evaluation for prequalification will occur once the vendor has been selected for consideration. This evaluation will allow the Department to prequalify only those vendors considered for award versus trying to qualify all vendors who register. Vendors sign up to be registered for future award opportunities; they do not sign up to be automatically reviewed for prequalification.

- Amend renumbered rule 761—20.10(307) to add other types of professional and technical services to the series of services listed. Surveying, general engineering consultant, and construction inspection were omitted from the rule previously. Wording was added to the introductory paragraph to clarify that the firm selection is based on qualifications and that contract costs are negotiated after selection is determined based on qualifications. This clarification was added to differentiate professional and technical services contracts procured in accordance with 23 CFR Part 172 when cost is not a factor from professional and technical services contracts procured when cost is a factor, but not the only factor, as outlined in new rule 761—20.6(307). The amendment also incorporates the information about registration of firms and updates the information to comply with changes to 23 CFR Part 172.

The amendments to Chapter 25 update the activities that are exempted from the provisions of Iowa Code section 23A.2(1) to remove “state aircraft pool operations” and “daycare.” The Department has not owned state aircraft since the 1990s, and 2015 Iowa Acts, chapter 123, section 1, updated Iowa Code section 23A.2(9) to remove state aircraft pool operations. Since the early 2000s, the Department has not provided facilities for daycare services on Department property.

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 January 16, 2019, as **ARC 4236C**. 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 20, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the 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 17, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—20.1(307) as follows:

761—20.1(307) Scope of chapter and applicability.

20.1(1) Scope. ~~Unless otherwise provided herein, this~~ This chapter of rules pertains only to the procurement of equipment, materials, supplies and services by the Iowa department of transportation with funds from the department's operating budget or from the materials and equipment revolving fund established in Iowa Code section 307.47 ~~or other program funds authorized for department use. Also, this chapter applies only to procurement from firms, as defined in subrule 20.2(2) herein.~~

20.1(2) Applicability. Rules 761—20.4(307) through 761—20.6(307) apply to professional and technical services procured using the general purchasing process where contracts are awarded competitively and cost is a factor. Rule 761—20.10(307) applies to professional and technical services contracts that are awarded based on qualifications when the cost is negotiated after the vendor is selected.

ITEM 2. Rescind rule 761—20.2(307) and adopt the following **new** rule in lieu thereof:

761—20.2(307) Definitions. As used in this chapter, unless the context otherwise requires:

"Bidder" means a respondent to a solicitation as a bidder, offeror or contractor.

"Competition" means the efforts of three or more parties acting independently to secure a contract with the department to provide equipment, materials, supplies or services to the department by offering or being in a position to offer the most favorable terms. "Favorable terms" includes, but is not limited

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to: price, speed of execution, anticipated quality of the product to be provided judged according to the expertise and experience of the provider, or ability to produce a desired result or to provide a desired commodity.

“*Department*” means the Iowa department of transportation.

“*Firm*” means any bona fide contracting entity, including individuals and educational institutions. Except for educational institutions, the term shall not include governmental agencies or political subdivisions.

“*Methods of procurement*” means formal advertising, limited solicitation, or negotiation as follows:

1. “*Formal advertising*” means procurement by competition and awards involving the following basic steps:

- Preparing a solicitation that describes the requirements of the department clearly, accurately and completely but avoids unnecessarily restrictive specifications or requirements which might unduly limit the number of responses.
- Distributing the solicitation to prospective bidders and advertising in appropriate media in sufficient time to enable prospective bidders to prepare and submit responses before the time set for public opening of responses.
- Receiving responses submitted by prospective contractors.
- Awarding the contract, after responses are publicly opened, to that responsible bidder whose response conforms to the solicitation and is the most advantageous to the department, price and other factors considered.

2. “*Limited solicitation*” means procurement by obtaining a sufficient number of quotations, bids or proposals from qualified sources:

- As is deemed necessary to ensure that the procurement is fair to the department, price and other factors considered, including the administrative costs of the procurement.
- As is consistent with the nature and requirements of the particular procurement.
- So that the procurement is competitive to the maximum practicable extent.

3. “*Negotiation*” means any method of procurement other than formal advertising or limited solicitation to seek the best and final offer which is most advantageous to the department.

“*Professional and technical services*” means services that are unique, technical, or infrequent functions performed by independent contractors whose occupation is the rendering of such services. Contracts may go to partnerships, firms, or corporations as procured through formal advertising, solicitation or negotiation methods outlined in rules 761—20.3(307) through 761—20.6(307) and architectural, landscape architectural, surveying, general engineering consultant, construction inspection, or engineering services and other related professional and technical services as outlined in rule 761—20.10(307).

“*Response*” means the submittal of written documents by a prospective bidder, offeror or contractor as a response to any type of solicitation issued by the department for a quotation, bid or proposal.

“*Solicitation*” means the request by the department for a quotation, bid or proposal. This includes but is not limited to the complete assembly of related documents (whether attached or incorporated by reference) furnished to prospective bidders for the purpose of responding to a solicitation.

ITEM 3. Amend subrule 20.3(3) as follows:

20.3(3) *Negotiation.* The negotiation method of procurement may be used if formal advertising or limited solicitation is not feasible or practicable, or in any of the following instances:

- a. and b. No change.
- c. The procurement is for architectural, landscape architectural, engineering, or related professional ~~or~~ and technical services.
- d. The procurement is for other professional and technical services.
- e. When cost is only one of many factors considered to determine the award.
- e. f. The procurement is for services to be rendered by an educational institution.
- f. g. It is impracticable to secure competition through formal advertising or limited solicitation, such as when:

TRANSPORTATION DEPARTMENT[761](cont'd)

(1) and (2) No change.

(3) ~~Bids or quotations have been solicited,~~ Solicitations have been made available to prospective bidders and no responsive bids or quotations responses to the solicitation have been received.

(4) ~~Bids or quotations have been solicited,~~ Solicitations have been made available and the responsive bids or quotations submitted responses do not cover the quantity requirements of the solicitation. In this case, negotiation is permitted for the remaining quantity requirements.

(5) No change.

(6) The procurement is for ~~technical or professional~~ and technical services in connection with the assembly, installation or servicing (or the instruction of personnel therein) of equipment of a highly technical or specialized nature.

(7) to (11) No change.

~~g. h.~~ The procurement is for experimental, developmental or research work or for the manufacture or furnishing of property for experimentation, development, research or testing.

~~h. i.~~ It is determined that the bids or quotations responses received are not reasonable or have not been independently arrived at.

~~i. j.~~ Procurement by negotiation is otherwise authorized by law including, but not limited to, Iowa Code section 73.19.

~~j. k.~~ The manufacturer is willing to sell directly to the state at distributor cost.

ITEM 4. Amend rule 761—20.4(307) as follows:

761—20.4(307) Formal advertising procedures and requirements.

20.4(1) Bidders list. The department's purchasing ~~office~~ section shall maintain current bidders lists by commodity classification.

a. These lists are developed using available sources such as technical publications, telephone books, trade journals, commercial vendor registers, advertising literature, Internet resources and targeted small businesses certified by the ~~department of inspections and appeals~~ Iowa economic development authority. Solicitations will be posted as required on the Iowa economic development authority's targeted small business website no later than 48 hours prior to the issuance of the solicitation.

b. Any firm legally doing business in Iowa may be placed on an appropriate bidders list or lists by submitting a written request to: DOT Director of Purchasing, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

c. and d. No change.

20.4(2) ~~Request for proposals and solicitation of bids~~ Solicitation documents. The department shall prepare ~~a request for proposals~~ the solicitation documents complete with ~~bidding documents~~ requirements, specifications and instructions to bidders and ~~send (or deliver) the request for proposals to prospective bidders,~~ as applicable, to be sent (or publicly posted) for the purpose of bidding procuring goods or services.

a. In special situations (e.g., the procurement of new model equipment), the ~~request for proposals~~ solicitation may be marked "preliminary" and sent to prospective bidders requesting their review of the ~~proposal~~ solicitation to determine their ability to ~~bid~~ respond and meet the requirements of the procurement request. The "preliminary" ~~proposal~~ solicitation process involves the following steps:

(1) A ~~vendor's~~ conference may be held to discuss the "preliminary" ~~proposal~~ solicitation requirements with prospective bidders when the item in question is a new acquisition for the department.

(2) Written requests for variations, deviations or approved equal substitutions to the ~~proposal~~ solicitation shall be accepted, evaluated and answered by the department.

(3) The ~~proposal~~ solicitation requirements may be ~~amended by the department~~ revised to incorporate approved changes.

(4) A final ~~request for proposals~~ solicitation shall be sent to prospective bidders that participated in the preliminary process.

b. The method to be used by the department in evaluating ~~bids~~ responses received shall be disclosed in the ~~request for proposals~~ solicitation.

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c. The ~~request for proposals solicitation~~ shall be sent to a sufficient number of prospective bidders so as to promote adequate competition commensurate with the dollar value of the procurement.

(1) Generally, the ~~request for proposals solicitation~~ shall be sent to all bidders listed on the appropriate bidders list for the item to be procured.

(2) No change.

(3) The fact that less than an entire bidders list is used shall not in itself preclude the furnishing of ~~requests for proposals the solicitation~~ to others upon request, or the consideration of ~~bids responses~~ received from bidders who were not ~~invited to bid originally included in the bidders list~~.

d. The department shall publicize the procurement by advertising in appropriate media, ~~giving~~ providing the date and time set for public opening of ~~bid opening~~ submitted responses, a general description of the item to be procured, and the name and address of the person to contact to obtain a copy of the ~~request for proposals solicitation~~.

20.4(3) ~~Instructions to bidders~~ Response instructions. Each bidder shall prepare the ~~bidding documents~~ response to the solicitation in the manner prescribed and furnish all information and samples requested in the ~~request for proposals solicitation~~. The following shall be adhered to by all bidders when preparing and submitting ~~bids responses~~:

a. ~~Bid Response preparation.~~ ~~Bids Responses~~ shall be signed and prepared in ink or typewritten ~~on~~ in the ~~bidding solicitation~~ documents provided. ~~Telegraphic, telephonic~~ ~~Telephonic, E-mail~~ ~~email~~ or facsimile ~~bids responses~~ shall not be considered. When available, bidders may respond electronically to a secure authorized system as instructed in the solicitation.

b. No change.

c. ~~New merchandise.~~ Unless otherwise specified, all items ~~bid offered~~ shall be new, of the latest model or manufacture, and shall be at least equal in quality to that specified.

d. ~~Bid Response price.~~ Where requested, the unit and total price for each separate item, and the total price for all items, shall be provided ~~on~~ in the ~~bidding documents~~ bidder's response. Alternate prices for approved substitutions may be submitted by attaching a ~~bid response~~ marked as an alternate ~~bid~~ to the ~~bidding documents~~ original response. In case of error, the unit price shall prevail. If unit price is not requested ~~on the bidding documents~~ in the solicitation, the total price per item shall prevail.

e. No change.

f. ~~Time of acceptance.~~ The bidder shall hold the ~~bid offered prices~~ open for action by the department at least 30 days past the ~~bid opening date~~ time set for public opening of submitted responses.

g. ~~Escalator clauses.~~ Unless specifically provided for in the ~~request for proposals solicitation~~, a ~~bid response~~ containing an escalator clause shall not be considered.

h. ~~Federal and state taxes.~~ Except for specific items that will be noted in the ~~request for proposals solicitation~~, the department is exempt from payment of federal and state taxes. These taxes shall not be included in the ~~bid price~~ bidder's response. Exemption certificates shall be furnished to bidders upon request.

i. ~~Delivery dates.~~ In the space provided, the bidder shall show the earliest date on which delivery can be made. When the ~~request for proposals solicitation~~ shows the acceptable delivery date for an item, the proposed delivery date may be used as a factor in determining the successful bidder.

j. ~~Ties and reservations.~~ No ties or reservations by the bidder are permitted. Any tie or reservation stipulated by the bidder shall be sufficient grounds ~~for rejection of the bid~~ to reject the submitted response.

k. ~~Changes and additions.~~ No changes in or additions to the ~~request for proposals solicitation~~ shall be permitted unless a written request for a change or an addition is submitted to the department's purchasing ~~office~~ section in sufficient time to allow an appropriate analysis and response to all bidders, and the change or addition is approved by the purchasing ~~office~~ section. The purchasing ~~office~~ section shall notify all bidders of approved changes or additions by means of addenda.

Any unauthorized change in or addition to the ~~request for proposals solicitation~~ shall be sufficient grounds ~~for rejection of the bid~~ to reject the submitted response.

l. ~~Submission of bids~~ Response submission. All ~~bids responses~~ shall be submitted in sufficient time to reach the department's purchasing ~~office~~ section prior to the time set for ~~the opening of bids~~ public opening of submitted responses. Any ~~bid response~~ received after the time set for ~~bid opening~~

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public opening of submitted responses shall be returned to the bidder unopened. Bids Responses received shall be dated and time-stamped by the purchasing office section showing the date and hour received. By submitting a bid response, the bidder:

(1) Agrees that the contents of the bid response will become part of the contract if the bidder receives the award.

(2) Shall be assumed to have become familiar with the contents and requirements of the request for proposals solicitation.

m. Proposal guaranty. A proposal guaranty may be required as security that the bidder will execute the contract if awarded to the bidder. If required, each bid response shall be supported by a proposal guaranty in the form and amount prescribed in the request for proposals solicitation. Bids Responses not so supported shall not be read.

n. Withdrawal of bids responses prior to opening. Bids Responses may be withdrawn prior to the time set for the opening of bids forth in the solicitation. Prior to opening, a bidder who withdraws a bid response to a solicitation may submit a new bid response if desired.

o. Modification or withdrawal of bids responses after opening. After opening, no bid response may be modified. A bid response may be withdrawn after opening only if:

(1) The bidder submits, at least three days prior to ~~contract~~ award, a sworn statement asserting that the bid response contains a substantial inadvertent error and that the bidder would suffer a serious financial loss if required to perform under the bid response, and

(2) No change.

20.4(4) Public opening of bids responses. Bids Responses shall be opened publicly and read aloud at the time stipulated in the request for proposals solicitation.

20.4(5) Consideration of bids responses. The department reserves the right to accept or reject any or all bids responses. Individual bids responses may be rejected for any of the following reasons:

a. Noncompliance with the requirements of this rule or of the request for proposals solicitation.

b. to d. No change.

20.4(6) ~~Contract~~ Recommendation of award.

a. Time frame. Unless otherwise specified by the department in the request for proposals solicitation, an award shall be made within 30 days after bid opening the date and time set for public opening of submitted responses if it is in the best interests interest of the state. If an award is not made within the applicable time frame, the procurement shall be canceled unless an extension of time is mutually agreed to by the department and the apparent successful bidder.

b. Tied bids responses. Bids Responses which are equal in all respects and are tied in price shall be resolved among the tied bidders by giving first preference to an Iowa bidder and second preference to the bidder who satisfactorily performed a contract the previous year for the same item at the same location. If the tie involves bidders with equal standing, the award shall be determined by lot among these bidders. A tied bidder or the bidder's representative may witness the determination by lot.

~~*c. Small business.* Rescinded IAB 11/29/89, effective 1/3/90.~~

~~*d. c. Tabulation of bids responses.* A tabulation of bids responses with an award recommendation shall be sent to all interested parties including bidders at least ten days prior to ~~contract~~ award.~~

~~*e. d. Protests.* Any protest of the recommended ~~contract~~ award shall be submitted in writing to: Director of Purchasing, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. A written protest must be received by the director of purchasing at least three days prior to ~~contract~~ award within seven days after the recommended award has been posted. The protest shall be considered by the authority making the ~~contract~~ award. This is not a contested case as defined in Iowa Code section 17A.2.~~

~~*f. e. Return of proposal guaranty.* Unsuccessful bidders' proposal guaranties shall be promptly returned by the department after award is made. The proposed guaranty of the successful bidder shall be returned in accordance with subrule 20.4(7).~~

20.4(7) Contract execution and performance.

a. and b. No change.

c. Return of awarded bidder's proposal guaranty. The proposal guaranty of the successful bidder shall be returned following execution of the contract. However, if the successful bidder fails to execute

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the contract and file an acceptable performance bond and certificate of insurance (if they are required) within 14 days after award, or fails to comply with Iowa Code chapter 490, the award may be annulled and the proposal guaranty forfeited.

d. Assignment of contract. The contractor may not assign the contract to another party without written authorization from the department's purchasing ~~office~~ section.

e. Strikes, lockouts or acts of God. If the contractor's business or source of supply has been disrupted by a strike, lockout or act of God, the contractor shall promptly advise the department's purchasing ~~office~~ section. The department may elect to cancel the contract without penalty to either the contractor or to the department.

~~*f. Removal of trade-ins.* Rescinded IAB 2/5/03, effective 3/12/03.~~

~~*g. f. Payment.*~~ Unless otherwise stated in the contract, payment terms shall be net following the department's receipt and acceptance of the item(s) procured and receipt of an original invoice.

~~*h. g. Liquidated damages.*~~ The contract terms may provide for liquidated damages to be assessed if the contractor fails to complete the contract within the contract period or for any other reason as specified in the contract.

20.4(8) Additional requirements.

a. The department's standard specifications as referenced and adopted in rule 761—125.1(307A) for highway and bridge construction, as available on the department's website at www.iowadot.gov, where applicable and not in conflict with this rule or with the requirements of a particular procurement, shall apply to formal advertising procurement activities.

b. No change.

c. Procurement of motor vehicles shall ~~include the calculation and reduction of life cycle costs as specified in~~ be in accordance with Iowa Code section 48.3(1) 8A.311(20).

ITEM 5. Amend rule 761—20.5(307) as follows:

761—20.5(307) Limited solicitation of bids procedures and requirements.

20.5(1) No change.

20.5(2) Form of solicitation. The ~~documents soliciting bids~~ solicitation shall be as detailed and complete as practicable for the time and resources available.

20.5(3) Form of bid response. Bids Responses shall be submitted in writing or electronically when practicable. Written bids responses will prevail over oral bids responses in case of discrepancies, disputes or errors. Following is the order of preference:

1. Original, signed ~~bid~~ submitted response.
2. ~~Electronic bid~~ Electronically submitted response (facsimile, ~~E-mail~~ email, Internet).
3. Oral ~~bid response~~ (e.g., telephonic).

20.5(4) Award. The award shall be offered to that responsible bidder whose bid response meets the requirements of the solicitation and is the most advantageous to the department. An Iowa bidder will be given preference over an out-of-state bidder when bids responses are equal in all respects and are tied in price.

ITEM 6. Adopt the following new rule 761—20.6(307):

761—20.6(307) Professional and technical services. This rule applies to professional and technical services procured through the purchasing section using formal advertising, solicitation or negotiation methods outlined in rules 761—20.3(307) to 761—20.6(307). Professional and technical services procured based on qualifications are covered by rule 761—20.10(307).

20.6(1) Request for proposal (RFP). A solicitation prepared by the department shall include at least the minimum requirements for the type of goods or services sought. The solicitation is sent to prospective offerors and is publicly posted on the department's website.

20.6(2) Evaluation committee. A committee is established for the purpose of reviewing and evaluating proposed responses based on a set of criteria as outlined in the RFP. "Evaluation criteria" will

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define categories with assigned weighted values to be used as a scoring measure to determine the best overall solution for the department based on technical expertise and price, including but not limited to:

- a. Overall content of written submitted proposal information.
- b. Business knowledge.
- c. Work experience in required skills sets.
- d. Presentation or demonstration.
- e. Cost.

20.6(3) Award. The award shall be offered to a firm whose properly submitted compliant response best meets the requirements of the solicitation and receives the highest overall score of the weighted criteria.

ITEM 7. Adopt the following new rule 761—20.7(307):

761—20.7(307) Sole source or emergency selection. Sole source or emergency selection applies to all services, including professional and technical services. The department shall fully document and include in the contract file the justification for use of sole source or emergency selection and the basis on which a particular firm is selected.

20.7(1) Sole source selection. The department may select a single firm which meets the requirements of the required work categories to perform the work with which to negotiate when one of the following conditions exists:

- a. Only a single firm is determined qualified or eligible to perform the contemplated services or is eminently more likely to most satisfactorily complete the work than another firm.
- b. The services involve work that is of such a specialized character or nature, or related to a specific geographical location, that only a single firm, by virtue of experience, expertise, proximity to or familiarity with the project or ownership of intellectual property rights, could most satisfactorily complete the work.

20.7(2) Emergency selection. The department may select a single firm which meets the requirements of the required work categories to perform the work when there is an emergency that will not permit the time necessary to use normal selection procedures. An emergency includes, but is not limited to, one of the following:

- a. A condition that threatens the public health, welfare or safety.
- b. A need to protect the health, welfare or safety of persons occupying or visiting a public improvement or property located adjacent to the public improvement.
- c. A situation in which the department must act to preserve critical services or programs.

ITEM 8. Renumber rule 761—20.8(307) as 761—20.10(307).

ITEM 9. Adopt the following new rule 761—20.8(307):

761—20.8(307) Conflicts with federal requirements. If any provision of this chapter would cause a denial of federal funds or services or would otherwise be inconsistent with federal law, federal law shall be adhered to, but only to the extent necessary to prevent denial of the federal funds or services or to eliminate the inconsistency with federal law.

ITEM 10. Reserve rule 761—20.9.

ITEM 11. Amend renumbered rule 761—20.10(307) as follows:

761—20.10(307) Negotiation—architectural, landscape architectural, engineering and related professional and technical services. This rule prescribes procedures for the procurement of architectural, landscape architectural, surveying, general engineering consultant, construction inspection, engineering and related professional and technical services by negotiation where selection is based on qualifications in compliance with 23 CFR Part 172. Contract costs are negotiated after a qualification-based selection.

20.10(1) ~~Prequalification~~ Registration of firms providing professional and technical services.

~~a.—General information.~~

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~~(1) When procuring any of these services, the department shall consider for contract award only those firms that are prequalified with the department in the category of work to be contracted.~~

~~(2) Prequalification of subconsultants is also required if a work category exists for the services to be provided by the subconsultant. If no category exists, normal methods of acceptance shall be used such as experience, typical licensure, certification or registration, or seals of approval by others. A subconsultant is a firm contracted to the "prime" firm for the performance of work contracted by the department to the prime firm.~~

~~(3) When another party (e.g., a political subdivision), under agreement with the department or as prescribed by law, must obtain the department's approval of a contract between the party and a firm for provision of any of these services, the firm to be awarded the contract must be prequalified with the department in the category of work to be contracted.~~

~~b.—Web site. Application forms, descriptions of the categories of work for which firms may be prequalified, the minimum qualification standards for each work category, and a list of firms prequalified in each work category are available on-line on the department's Web site. The home page is www.dot.state.ia.us. Prequalification information is found by clicking on the link "Doing Business with the DOT" and then the link "Professional and Technical Consultant Utilization."~~

~~c.—Consultant coordinator. Information regarding prequalification is also available from the Consultant Coordinator, Engineering Bureau, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.~~

~~d.—Application forms. A firm wishing to prequalify with the department in one or more categories of work must submit Forms 102111 and 102113. An applicant firm may either submit the forms on-line or complete hard copies of the forms and mail them to the consultant coordinator. On-line submission is encouraged.~~

~~(1) On Form 102111, the applicant firm shall provide general information regarding the firm.~~

~~(2) On Form 102113, the applicant firm shall provide detailed information regarding the firm's qualifications to perform a specific category of work. A separate Form 102113 must be submitted for each category. The firm shall support its application for prequalification for a particular category of work on the basis of adequacy and expertise of personnel, specialized experience in the field or fields required, performance records, and the minimum qualification standards set forth for the category.~~

~~(3) The department does not recognize joint ventures for the purpose of prequalification. Each firm will be prequalified in terms of its own capabilities; i.e., the major, significant aspects of the work can be accomplished using the firm's own personnel and equipment.~~

~~This requirement does not preclude consideration during the department's selection process of joint ventures or firms in the practice of subcontracting for specialized services.~~

~~e.—Initial prequalification.~~

~~(1) A firm may apply for prequalification at any time.~~

~~(2) The department shall evaluate each Form 102113 submitted in terms of the minimum qualification standards for the work category and, if applicable, the past performance of the firm on contracts with the department for work falling within the category.~~

~~(3) If the department prequalifies a firm for a particular category of work, the department will update its Web site to indicate the firm is prequalified for that category. If prequalification is denied, the department shall notify the firm; see paragraph "h" of this subrule.~~

~~(4) A firm's prequalification status for all approved categories of work is effective during the calendar year of application and for one year thereafter, to expire on December 31.~~

~~f.—Reapplication and renewal. At least two months but not more than three months prior to the expiration date, the department shall advise affected prequalified firms to reapply. A firm that reapplies on-line need only revise its on-line forms. A firm that does not reapply on-line must submit new Forms 102111 and 102113. The department shall process reapplications in the same manner as initial prequalification. A firm's renewal of prequalification is effective for two more years, to expire on December 31.~~

~~g.—Amendment or expansion of prequalification. A prequalified firm may submit amended prequalification forms or apply for prequalification for additional categories of work at any time.~~

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~~(1) Amended forms shall be accompanied by a separate statement explaining the submission. The firm must first contact the consultant coordinator for instructions on how to proceed.~~

~~(2) If the submission affects the minimum qualification standards or if it is an application for prequalification for an additional category of work, the department shall process the submission in the same manner as initial prequalification. However, the prequalification expiration date assigned to the firm will remain the same.~~

~~*h. Denial or cancellation of prequalification.* Prequalification may be denied or canceled if the firm fails to meet the minimum qualification standards or if the firm's performance on a contract with the department was unacceptable. Prequalification may also be denied or canceled for good cause including, but not limited to, omissions or misstatements of material fact on the application forms that could affect the prequalification status of the firm.~~

~~The department shall notify the firm by E-mail or in writing of denial or cancellation, the reason(s) therefor, and the person to contact in writing to protest the department's action.~~

~~*a.* A firm wishing to provide professional and technical services to the department as a consultant may register to receive information through the GovDelivery portal available at the department's website at www.iowadot.gov. The firm is responsible for keeping the firm's information updated. For information, persons may contact the consultant coordinator at the Office of Project Management, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or by telephone at (515)239-1803.~~

~~*b.* The department shall maintain a list of work categories, descriptions and requirements for each work category online.~~

~~20.10(2) and 20.10(3) Reserved.~~

~~20.10(4) *Preselection Request for professional and technical services.* Prior to selecting a firm with which to initiate negotiations under this rule, the department shall document the need for outside services, a description of the needed services, the time frame within which the work must be performed, and the method of selection to be used. One of the following methods shall be used to select a firm with which to initiate negotiations:~~

~~*a.* Selection committee—complete Complete process. See subrule 20.8(5) 20.10(5).~~

~~*b.* Selection committee—small Small contract process. See subrule 20.8(6) 20.10(6).~~

~~*c.* Sole source or emergency selection. See subrule 20.8(7) rule 761—20.7(307).~~

~~20.10(5) *Selection committee—complete Complete process.* This method of selection is used The complete process method will use the following process and will be used unless another selection method is justified.~~

~~*a. Request for proposal (RFP).* The department shall prepare an RFP which will include the scope of the work, duration of the contract, list of applicable work categories, evaluation criteria (excluding cost), any established disadvantaged business enterprise or targeted small business goal for the proposed work, type of contract anticipated, submission details including the point of contact for the RFP for any questions, the time by which the RFP should be received by the department and anticipated date of selection. The RFP will not require any cost information to be submitted by the proposing firms.~~

~~*b. Website.*~~

~~(1) The RFP will be posted on the Iowa department of administrative services' website no later than 48 hours prior to the issuance of the RFP.~~

~~(2) The RFP will be posted on the department's website. The notification of the RFP being posted will be sent to all users who have signed up to receive the notification via GovDelivery. The notification will include the link to the website where the RFP is posted. See subrule 20.10(1).~~

~~(3) The department will post any questions received on the RFP and answers thereto on the website indicated in the GovDelivery notification.~~

~~*a. c. Selection committee.* The department shall appoint a selection committee to: become familiar with the RFP, review the firms that have responded to the RFP to determine if they meet the requirements of the work to be performed, and evaluate the firms that meet the qualifications per the evaluation criteria. The selection committee will, if necessary, interview the firms, score the firms, document the committee's decision and provide the scoring to the consultant steering committee.~~

~~(1) Review the credentials of the firms prequalified to perform the services needed.~~

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~~(2) Determine which firms will be sent a request for proposals (RFP). The committee may limit the number of firms sent an RFP to eliminate the effort required by a firm that submits a proposal for the work but, based on the evaluation criteria, would have a limited possibility of being selected.~~

~~(3) Establish weighted criteria for evaluating the firms submitting proposals. See paragraph "b" of this subrule.~~

~~(4) Prepare an RFP and send it to the firms identified in subparagraph (2). The department shall also notify all prequalified firms that an RFP has been issued and post the RFP on the department's Web site.~~

~~(5) If necessary, interview firms submitting proposals.~~

~~(6) Evaluate the firms submitting proposals. Select the top (three or more) firms.~~

~~(7) Document the committee's decision-making process.~~

~~b. *Evaluation criteria.* The selection committee is responsible for establishing criteria for evaluating each firm submitting a proposal, assigning weighted values to the criteria, and rating each firm on each criterion. Evaluation criteria are tailored to the needed services. Typical evaluation criteria are listed below. The list is not exhaustive, nor is each criterion mandatory.~~

~~(1) Staffing expertise consistent with special project needs.~~

~~(2) Past experience with similar types of work.~~

~~(3) Performance evaluations by the department and references included in a firm's proposal.~~

~~(4) Proximity to the project area, particularly when extensive field services are required.~~

~~(5) Current workload and commitment of key personnel.~~

~~(6) Specific qualifications of key staff who will be forming the firm's project team.~~

~~(7) Resources the firm has available and proposes to use on the project, including the firm's use of equipment and automated technology and their compatibility with equipment and technology used by the department.~~

~~(8) Identification of proposed subconsultants and the work they will perform.~~

~~d. *Evaluation criteria.* The selection committee is responsible for establishing criteria for evaluating each firm submitting a proposal, assigning weighted values to the criteria, and rating each firm on each criterion. Evaluation criteria are tailored to the needed services. Typical evaluation criteria are listed below. The list is intended as a guideline only; it is not exhaustive, nor is each criterion mandatory.~~

~~(1) Staffing expertise consistent with special project needs.~~

~~(2) Past experience with similar types of work.~~

~~(3) Current workload and commitment of key personnel.~~

~~(4) Specific qualifications of key staff who will be forming the firm's project team.~~

~~(5) Resources the firm has available and proposes to use on the project, including the firm's use of equipment and automated technology and the firm's compatibility with equipment and technology used by the department.~~

~~(6) Identification of proposed subconsultants and the work the subconsultants will perform.~~

~~e. e. *Consultant steering committee.* A consultant steering committee is responsible for reviewing the top firms selected as scored by the selection committee, determining the order of preference for negotiations, and documenting its decision-making process decision. The number of firms selected shall include at least two alternate firms. The committee shall document its reasoning when the number of selected firms is less than the minimum requirement. The consultant steering committee shall consider not only the selection committee's scoring but other factors such as:~~

~~(1) to (4) No change.~~

~~d. f. *Completion of selection process.* After selection committee and consultant steering committee activities are complete, the department shall determine whether negotiations may begin. If negotiations are approved, the department shall proceed to negotiate with the firm that is first in order of preference.~~

~~e. g. *Notification to firms.* The department shall notify those firms submitting proposals of the names of the top firms selected and the order of negotiations. Along with the notification, post the results of the selection on the website identified in the GovDelivery notification. For firms not included on the~~

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ranked list of firms, the department shall also provide ~~each firm other than the top firms~~ a matrix showing the high, low and average scores for each item evaluated and that firm's score for each item.

20.10(6) ~~Selection committee—small~~ *Small contract process*. The small contract process may be used to identify a single firm with which to negotiate when the estimated work under the contract can normally be completed within a 12-month period and the estimated cost of the contract will not exceed ~~\$100,000~~ \$150,000.

a. Selection committee. The department shall appoint a selection committee to: identify at least three firms that meet the requirements of the work categories involved in performing the work; document the names of the firms considered, if necessary; interview the firms; select a firm with which to initiate negotiations; and document the committee's decision.

~~(1) Review the credentials of the firms prequalified to perform the services needed.~~

~~(2) If necessary, interview firms.~~

~~(3) Select a well-qualified firm with which to initiate negotiations.~~

~~(4) Document the committee's decision-making process.~~

b. No change.

20.10(7) ~~Sole source or emergency selection~~. The department shall fully document and include in the contract file the justification for use of sole source or emergency selection and the basis on which a particular firm is selected.

a. Sole source selection. The department may select a single prequalified firm with which to negotiate when one of the following conditions exists:

~~(1) Only a single firm is determined qualified or eligible to perform the contemplated services or is eminently more qualified than other firms.~~

~~(2) The services involve work that is of such a specialized character or related to a specific geographical location that only a single firm, by virtue of experience, expertise, proximity to or familiarity with the project or ownership of intellectual property rights, could most satisfactorily complete the work.~~

b. Emergency selection. The department may select a single prequalified firm with which to negotiate when there is an emergency that will not permit the time necessary to use normal selection procedures. An emergency includes, but is not limited to, one of the following:

~~(1) A condition that threatens the public health, welfare or safety.~~

~~(2) A need to protect the health, welfare or safety of persons occupying or visiting a public improvement or property located adjacent to the public improvement.~~

~~(3) A situation in which the department must act to preserve critical services or programs.~~

20.10(7) *Selection dispute resolution*. Any dispute of the recommended selection shall be submitted in writing to the consultant coordinator. A written notice of the dispute with supporting evidence must be received by the consultant coordinator within 15 calendar days from the date the selection is posted on the department's website. This is not a contested case as defined in Iowa Code section 17A.2. The department will inform the selected firm(s) of the dispute and inform the firm(s) that the department reserves the right to proceed with negotiations with the selected firm(s) pending resolution of the dispute or claim.

20.10(8) *Negotiation of contract*. The purpose of negotiations is to develop a contract that is mutually satisfactory to the department and the selected firm.

a. No change.

b. The department may perform a preaudit. A preaudit typically includes:

~~(1) No change.~~

~~(2) An analysis of the firm's proposed direct costing rates and indirect overhead factors to ensure their the firm's propriety and allowability.~~

c. For contracts with federal funding, the department shall verify federal suspension and debarment actions and eligibility status of firms prior to entering into an agreement or contract.

20.10(9) *Unsuccessful negotiations*. If a mutually satisfactory contract cannot be negotiated, the department shall formally terminate the negotiations and notify the firm in writing. Termination of

TRANSPORTATION DEPARTMENT[761](cont'd)

negotiations is without prejudice and at the department's discretion. The substance of terminated negotiations is confidential.

~~When a selection committee was used, the~~ The department shall then initiate negotiations with the firm given ~~second~~ next preference, and this procedure shall may be continued until a mutually satisfactory contract has been negotiated. If a satisfactory contract cannot be negotiated with any of the selected firms, the department shall either:

a. No change.

b. Redefine the scope of the project or work and start over (~~preselection~~). See subrule 20.10(4). Once negotiations are terminated, negotiations cannot be reopened with the same firm.

~~20.10(10) Evaluation of performance under a contract.~~

a. The department shall evaluate all ~~contracts~~ firms under this rule ~~after completion of the work. Those contracts which exceed one year in duration shall also be evaluated~~ annually based on the contracts that were active during the fiscal year. Both the firm's performance and quality of the final product shall be evaluated. The evaluation shall consider:

(1) to (7) No change.

b. ~~The evaluation may include a recommendation that the firm's prequalification be canceled (see paragraph 20.8(1) "h"). The firm shall be given an opportunity to review, comment on and sign the evaluation. The evaluation is confidential.~~

~~20.10(11) Conflicts with federal requirements. If any provision of this rule would cause a denial of federal funds or services or would otherwise be inconsistent with federal law, federal law shall be adhered to, but only to the extent necessary to prevent denial of the federal funds or services or to eliminate the inconsistency with federal law.~~

ITEM 12. Amend **761—Chapter 20**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~48.3(1), 48.6(10), 8A.302(1), 8A.311(20), 73.15 to 73.21, 307.10, 307.12 and 307.21.~~

ITEM 13. Rescind and reserve subrule **25.2(9)**.

ITEM 14. Amend subrule 25.2(14) as follows:

25.2(14) Use of departmental facilities or services by persons providing services to or representing departmental employees including, but not limited to, the following services or persons: food, credit union, ~~day care~~ and employee organizations.

[Filed 2/20/19, effective 4/17/19]

[Published 3/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4342C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to early release of retained funds

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 chapters 26 and 573 and section 314.1A and 2018 Iowa Acts, House File 2233.

TRANSPORTATION DEPARTMENT[761](cont'd)

Purpose and Summary

This rule making reflects the changes needed in Chapter 180 due to 2018 legislation concerning the early release of retained funds. The amendments implement the changes made by 2018 Iowa Acts, House File 2233, which repealed Iowa Code section 26.13 and added new Iowa Code section 573.28.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 16, 2019, as **ARC 4228C**. 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 20, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the 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 17, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—180.10(314) as follows:

761—180.10(314) Retained funds. In addition to requiring the contractor to submit a performance and payment bond, the governmental entity ~~is required to~~ shall also retain funds from each payment to the contractor for the benefit of subcontractors and suppliers, and apply or release such funds, as provided in required by Iowa Code chapter 573, and is required to release retained funds upon substantial completion of the work, as provided in Iowa Code section 26.13.

ITEM 2. Amend **761—Chapter 180**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 26.2, ~~26.13~~, 26.14, 314.1A, 314.1B, ~~and 573.2~~, and 573.28.

[Filed 2/20/19, effective 4/17/19]

[Published 3/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4343C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to final-stage manufacturers, motor vehicle dealer books and records, and security interest cancellation notations on certificate of title

The Department of Transportation hereby amends Chapter 400, “Vehicle Registration and Certificate of Title,” and Chapter 425, “Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 322.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.1, 321.50, 321.63, 322.2 and 322.3; 2018 Iowa Acts, Senate File 2325, section 1; 2018 Iowa Acts, Senate File 2293, sections 1 and 3; and 2018 Iowa Acts, Senate File 2262, sections 1 to 5.

Purpose and Summary

This rule making amends Chapters 400 and 425 to align the rules with Iowa Code sections 321.1, 321.50, 321.63, 322.2 and 322.3 as amended by 2018 Iowa Acts, Senate File 2325, section 1; 2018 Iowa Acts, Senate File 2293, sections 1 and 3; and 2018 Iowa Acts, Senate File 2262, sections 1 to 5. The specific Iowa Acts referenced amended Iowa Code sections related to notation of cancellation of a security interest on a motor vehicle title, the location of motor vehicle dealer books and records, and the ability of a final-stage motor vehicle manufacturer to sell a completed multi-stage manufactured vehicle to a retail buyer. The following paragraphs describe the amendments in more detail.

Final-stage manufacturers: The amendments conform the rules to 2018 Iowa Acts, Senate File 2262, sections 1 to 5, which changes the definition of “manufacturer” to include a final-stage motor vehicle manufacturer, and defines “final-stage manufacturer” to mean a person who performs such manufacturing operations on an incomplete motor vehicle that it becomes a completed motor vehicle. Prior to the legislation, a final-stage manufacturer was prohibited from holding a motor vehicle dealer’s license and thus could not sell a multi-stage manufactured vehicle directly to a retail buyer. The legislation allows a final-stage manufacturer holding either a new or used motor vehicle dealer license to assign an incomplete motor vehicle manufacturer’s certificate of origin to a retail buyer for purposes of issuance of a certificate of title by a county treasurer as a new motor vehicle, which may have the same make as the incomplete motor vehicle. The rules implement the legislation by addressing the eligibility and application requirements for a final-stage manufacturer motor vehicle dealer license. Specifically, the applicant for a final-stage manufacturer’s motor vehicle dealer license must meet the definition of a final-stage manufacturer in the Iowa Code, must meet the final-stage manufacturer certification responsibilities under federal regulation in 49 CFR Section 567.5, and must already be licensed as a manufacturer under Iowa Code chapter 322 and 761—Chapter 425. The applicant must also follow the same standards and meet the same criteria for a motor vehicle dealer license as already established in rule 761—425.10(322).

Motor vehicle dealer books and records: The amendments add a new rule to incorporate the requirements of Iowa Code sections 321.1 and 321.63 as enacted by 2018 Iowa Acts, Senate File 2293, sections 1 and 3, for motor vehicle dealer books and records when the motor vehicle dealer has more than one licensed location. The rule specifies that a motor vehicle dealer may keep the dealer’s collective business records together at any of the dealer’s licensed locations, but the records must be stored in a manner so the records are distinguishable to each licensee and may be accurately identified in any audit proceeding. Also, the dealer must notify the Department when the dealer intends to move

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business records to another licensed location, which complies with the statutory requirement to notify the Department of the records location.

Security interest cancellation title notations: The amendments also incorporate the requirements of Iowa Code section 321.50 as enacted by 2018 Iowa Acts, Senate File 2325, section 1, allowing for the cancellation of a security interest to be submitted either on the title itself or on a separate notarized statement from the lienholder. This provision is a favorable alternative to the previous process, which only allowed the security interest cancellation to be noted on the title and did not accommodate the common practice of banks or lienholders sending along with the unsigned title a notarized letter canceling the security interest.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 16, 2019, as **ARC 4230C**. 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 20, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the 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 17, 2019.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of "Final-stage manufacturer" in rule **761—400.1(321)**:

"Final-stage manufacturer" means as defined in Iowa Code section 322.2.

ITEM 2. Amend rule **761—400.1(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23, 321.24, 321.40, 321.45, 321.50, 321.117, 321.123, 321.134, ~~and~~ 321.157 and 322.2.

ITEM 3. Amend subrule 400.4(1) as follows:

400.4(1) New vehicle. If application is made for a new vehicle, a manufacturer's certificate of origin, properly assigned to the applicant, shall be submitted. A manufacturer's certificate of origin shall not be accepted if the assignment to the applicant is made by any person other than the manufacturer, importer,

TRANSPORTATION DEPARTMENT[761](cont'd)

or distributor, or a licensed motor vehicle dealer franchised to sell that ~~line-make~~ line-make of vehicle, or a final-stage manufacturer motor vehicle dealer licensed under rule 761—425.11(322).

a. The first person, including a dealer not franchised to sell that ~~line-make~~ line-make of vehicle, who is assigned the manufacturer's certificate of origin shall obtain a certificate of title and register the vehicle.

b. No change.

c. If a 1980 or subsequent model year vehicle is manufactured by a person other than the original manufacturer, both the original manufacturer's certificate of origin and the ~~final~~ final-stage manufacturer's certificate of origin shall be submitted if the vehicle's original line-make is changed by the final-stage manufacturer. All assignments or reassignments of ownership of the vehicle shall be made on the ~~final~~ final-stage manufacturer's certificate of origin. The face of the original manufacturer's certificate of origin shall be stamped in bold type with the statement: "~~Final~~ Final-stage manufacturer's MCO has been issued on this vehicle." The original manufacturer's vehicle identification number shall be listed on the ~~final~~ final-stage manufacturer's certificate of origin.

d. If a final-stage manufacturer is a motor vehicle dealer licensed under rule 761—425.11(322), the final-stage manufacturer may reassign the original manufacturer's certificate of origin to the retail buyer.

ITEM 4. Amend rule **761—400.4(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.20, 321.23, 321.24, 321.30, 321.31, 321.45 to 321.50, ~~and~~ 321.67 and 322.3.

ITEM 5. Amend subrule 400.8(2) as follows:

400.8(2) The secured party may also note the cancellation in a statement written on the secured party's letterhead if the statement is notarized and contains the following information: county that issued the title; title number; security interest number; vehicle identification number; vehicle owner's name; secured party's name, street address, city, state and ZIP code; date the security interest was canceled; and signature of an authorized representative of the secured party.

ITEM 6. Adopt the following **new** paragraph **425.10(3)“c”**:

c. Nothing in this subrule shall be construed to require a franchise agreement from a final-stage manufacturer applying for a motor vehicle dealer license under rule 761—425.11(322).

ITEM 7. Adopt the following **new** rule 761—425.11(322):

761—425.11(322) Motor vehicle dealer licensing for final-stage manufacturers.

425.11(1) Eligibility. A final-stage manufacturer may be licensed as a motor vehicle dealer if the final-stage manufacturer:

- a.* Meets the definition of “final-stage manufacturer” in Iowa Code section 322.2.
- b.* Meets the requirements of a final-stage manufacturer in 49 CFR Section 567.5.
- c.* Is licensed as a manufacturer under Iowa Code chapter 322 and this chapter.

425.11(2) Application. A final-stage manufacturer shall apply for a motor vehicle dealer license in the manner described in rule 761—425.10(322) and shall certify that the final-stage manufacturer meets the eligibility requirements under subrule 425.11(1).

This rule is intended to implement Iowa Code sections 322.2 and 322.3.

ITEM 8. Amend rule **761—425.12(322)**, catchwords, as follows:

761—425.12(322) Motor vehicle dealer's principal place of business.

ITEM 9. Adopt the following **new** rule 761—425.13(321,322):

761—425.13(321,322) Business records of a motor vehicle dealer with multiple licenses.

425.13(1) Applicability. A motor vehicle dealer licensed under Iowa Code chapter 322 and this chapter who holds more than one motor vehicle dealer license may maintain the dealer's collective business records together at any of the dealer's licensed locations.

TRANSPORTATION DEPARTMENT[761](cont'd)

425.13(2) *Separation of records.* Business records of licensed motor vehicle dealers kept at a single licensed location under this rule shall be stored separately and distinctly, in a manner distinguishable to each licensee, and shall not be commingled.

425.13(3) *Notification to the department.* A motor vehicle dealer shall notify the office of vehicle and motor carrier services in writing no fewer than ten days before moving the dealer's business records to another licensed location.

This rule is intended to implement Iowa Code sections 321.63 and 322.2 to 322.15.

[Filed 2/20/19, effective 4/17/19]

[Published 3/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4344C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to application for firefighter plates

The Department of Transportation hereby amends Chapter 401, "Special Registration Plates," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.34.

Purpose and Summary

The amendment to Chapter 401 revises the process by which a member of a fire department applies for firefighter license plates in order to allow the applicant to submit an application with the required signatures, without requiring those signatures to be original and notarized. Iowa Code section 321.34(10) allows a current or retired member of a paid or volunteer fire department to order special registration license plates which signify that the applicant is a current or retired member of a fire department. The Department established the application process for special registration plates in administrative rules, and currently, subrule 401.9(1) provides that an application for firefighter license plates must contain the original, notarized signatures of the fire chief and another fire officer certifying that the applicant is a current or retired member of the fire department.

The Department recognizes, after consultation with the Iowa Firefighters Association, that the requirement to have the signatures of the fire chief and another fire officer be original and notarized for each application can be an administrative burden, especially for very large fire departments with a large number of applicants, as well as for smaller fire departments that may not always have a notary public available. Removing the requirement that the signatures on the application be original and notarized does not in any way diminish the authenticity of the application, as the application is still being signed and certified by not only the chief of the fire department but also another fire officer. Rather, the amendment reduces the administrative burden of having a notary public available any time an application is being signed and allows applications to be submitted electronically, which will further streamline the application process.

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 January 16, 2019, as **ARC 4232C**. 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 20, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the 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 17, 2019.

The following rule-making action is adopted:

Amend subrule 401.9(1) as follows:

401.9(1) Initial application for firefighter plates. Application for firefighter plates shall be submitted to the department ~~on a form~~ in a manner prescribed by the department. Both the fire chief and another fire officer of the paid or volunteer fire department shall sign the application ~~form~~, certifying that the applicant is a current or retired member of the fire department. ~~The signatures must be original and notarized.~~ If the fire chief and fire officer deny an application, the department may conduct an investigation and make a determination to approve or deny the application.

[Filed 2/20/19, effective 4/17/19]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4345C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to permitted tandem axle weights

The Department of Transportation hereby amends Chapter 511, "Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight," Iowa Administrative Code.

TRANSPORTATION DEPARTMENT[761](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321E.9A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321E.7.

Purpose and Summary

This rule making adds a new subrule to rule 761—511.13(321,321E) in order to align with Iowa Code section 321E.7, which was amended by 2016 Iowa Acts, chapter 1098, section 35. The rule making implements the statutory requirement that a vehicle operating under a permit issued pursuant to Iowa Code section 321E.8, 321E.9 or 321E.9A may have a gross weight not to exceed 46,000 pounds on a single-tandem axle of the truck tractor and a gross weight not to exceed 46,000 pounds on a single-tandem axle of the trailer or semitrailer if each axle of each tandem group has at least four tires. The legislative change brought Iowa in closer alignment with surrounding states' permit-issuing processes.

The subrule provides that no single axle of a tandem group may exceed 24,000 pounds. This limitation is necessary to prevent a tandem axle from having a lopsided weight configuration (30,000 pounds + 16,000 pounds, for example) as a lopsided weight configuration would unduly damage road and bridge infrastructure. The limit of 24,000 pounds aligns with the maximum weight the Department allows for axles currently (except for construction equipment with special tires) and is consistent with the weight limits of other Midwest states.

The subrule also provides that a permitted tandem axle cannot be part of a larger group of axles whose centers are greater than 96 inches apart, which is the maximum length between the centers of consecutive axles in a tandem axle as defined in Iowa Code section 321.1(80). This provision is necessary as the above-referenced legislative change was implemented to allow stand-alone tandem axles, which are typically the back two axles of a truck or trailer, to be permitted at the higher weight. The amendment is not intended to allow a person to select two axles from within a larger group of axles and designate them as the tandem axles. For example, selecting two axles out of a group of three and calling them "tandem" could exceed the weight limits for the larger axle group. This example is further illustrated by considering the fact that a triple-axle maximum weight is 60,000 pounds, while a single-axle maximum weight is 20,000 pounds. Therefore, if a person were able to designate two axles out of the triple axle as a tandem axle, then the person could end up with the designated tandem axle at 46,000 pounds and the single axle at 20,000 pounds. This designation would result in a total weight equal to 66,000 pounds, which exceeds the maximum weight for a triple axle. The amendment, therefore, prevents improper interpretation of the 2016 legislative change that would result in excessive axle weights and unduly damage road and bridge infrastructure and aligns with the Department's current permitting process. The amendment will provide clarity for both motor vehicle enforcement officers as well as motor carriers.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 16, 2019, as **ARC 4231C**. 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 20, 2019.

Fiscal Impact

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

TRANSPORTATION DEPARTMENT[761](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 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 17, 2019.

The following rule-making action is adopted:

Adopt the following **new** subrule 511.13(6):

511.13(6) *Permitted tandem axle weights.*

a. Vehicles operating under an annual oversize permit, annual oversize/overweight permit, single-trip permit, or multitrip permit may have a gross weight not to exceed 46,000 pounds on a single-tandem axle of the truck tractor and a gross weight not to exceed 46,000 pounds on a single-tandem axle of the trailer or semitrailer if each axle of each tandem group has at least four tires.

b. The maximum weight of any single axle within a permitted tandem axle group shall be 24,000 pounds.

c. A permitted tandem axle shall not be a part of a larger group of axles whose centers are greater than 96 inches apart.

[Filed 2/20/19, effective 4/17/19]

[Published 3/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4346C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to taxicab motor carrier certification

The Department of Transportation hereby amends Chapter 524, "For-Hire Intrastate Motor Carrier Authority," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 325A.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 325A as amended by 2018 Iowa Acts, Senate File 2271.

TRANSPORTATION DEPARTMENT[761](cont'd)

Purpose and Summary

This rule making amends Chapter 524 to align the rules with Iowa Code chapter 325A as amended by 2018 Iowa Acts, Senate File 2271. The legislation requires taxicab companies to apply to the Department for a taxicab motor carrier passenger certificate and to meet certification requirements.

The amendments add a reference to Iowa Code chapter 325A, which governs motor carrier authority. Iowa Code chapter 325A was significantly amended during the 2018 Legislative Session to incorporate new requirements related to regulation of taxicab service companies in Iowa. Prior to enactment of the legislation, a taxicab company could only be regulated by the local authority the company operated within. However, when regulation of transportation network companies was established by 2016 Iowa Acts, chapter 1101 (House File 2414), many local authorities opted out of regulating taxicab companies. This decision left a void in oversight as the Department did not have the authority to regulate taxicab companies until 2018 Iowa Acts, Senate File 2271, became effective July 1, 2018. Now, taxicab companies are required to apply to the Department for a motor carrier passenger certificate and to meet all applicable certification requirements.

Specifically, the amendments provide for an electronic application process for persons applying for a motor carrier permit or certificate and require the application to contain the U.S. DOT number only if a U.S. DOT number is required by the Federal Motor Carrier Safety Administration (FMCSA). FMCSA requires a U.S. DOT number for motor carriers but does not provide one for passenger vehicles designed to transport eight passengers or fewer, including the driver. This provision means that certain taxicab companies do not qualify for a U.S. DOT number under federal law, so the Department is conforming application requirements accordingly.

The amendments allow a motor carrier certificate to be issued either in a physical or electronic format prescribed by the Department and mirror efficiencies the Department is seeking in other motor vehicle division processes by allowing more transactions and issuances to be completed electronically. The amendments also require the motor carrier certificate number to be included with the request for a duplicate permit or certificate to allow for more accurate record keeping and processing efficiency.

Finally, the amendments require a motor carrier operating intrastate only to display the U.S. DOT number if the motor carrier was issued a U.S. DOT number by FMCSA. As noted above, FMCSA requires a U.S. DOT number for a motor carrier but does not provide one for passenger vehicles designed to transport eight passengers or fewer, including the driver. This provision means that certain taxicab companies do not qualify for a U.S. DOT number under federal law, so the Department is conforming the motor carrier marking requirements accordingly.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 16, 2019, as **ARC 4233C**. 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 20, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the 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 17, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 761—524.1(325A) as follows:

761—524.1(325A) Purpose and applicability.

524.1(1) This chapter establishes requirements concerning for-hire intrastate motor carriers as authorized by Iowa Code chapter 325A.

524.1(2) This chapter applies to motor carriers of household goods, bulk liquid commodities, all other property, and passengers being transported for hire on any highway of this state other than a transportation network company or transportation network company driver as both are defined in Iowa Code section 321N.1 and provided for in 761—Chapter 540.

ITEM 2. Amend rule 761—524.2(325A) as follows:

761—524.2(325A) General information.

524.2(1) Information and location. Applications, forms and information on motor carrier permits and motor carrier certificates are available by mail from the Office of Vehicle and Motor Carrier Services, 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)237-3224~~ (515)237-3268; ~~or~~ by facsimile at ~~(515)237-3354~~ (515)237-3225; or by email at omcs@iowadot.us.

524.2(2) No change.

524.2(3) Complaints. Complaints against motor carriers pertaining to the provisions of this chapter shall be submitted in writing to the office of vehicle and motor carrier services.

ITEM 3. Amend rule 761—524.3(325A) as follows:

761—524.3(325A) Applications and supporting documents.

524.3(1) Application. An application for a motor carrier permit or motor carrier certificate shall be made to the office of vehicle and motor carrier services on a form prescribed for that purpose and furnished upon request. The department may require application forms and supporting documentation to be submitted electronically.

524.3(2) Application fee. An application for a motor carrier permit or motor carrier certificate shall be accompanied by the statutory application fee. This fee shall be paid by credit card or by cash, check or money order made payable to the Iowa Department of Transportation.

524.3(3) Supporting documents. An application for a motor carrier permit or motor carrier certificate must be accompanied by the following:

a. and b. No change.

c. ~~Form MCS-150, if the motor carrier does not have a~~ A U.S. DOT number if required by the Federal Motor Carrier Safety Administration.

d. and e. No change.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 4. Amend rule 761—524.4(325A) as follows:

761—524.4(325A) Issuance of credentials. When all requirements are met, the department shall issue the motor carrier permit or certificate. The motor carrier shall make a copy of the permit or certificate and carry it in each motor vehicle at all times. The copy may be in either a physical or an electronic format as prescribed by the department. The permit or certificate shall be available for display to any peace officer upon request.

ITEM 5. Amend rule 761—524.5(325A) as follows:

761—524.5(325A) Duplicate motor carrier permit or motor carrier certificate. Written requests for a duplicate motor carrier permit or motor carrier certificate shall be sent to the office of vehicle and motor carrier services. Requests shall include the carrier name, certificate number, or U.S. DOT number. Any motor carrier in good standing shall be issued a duplicate document upon payment of the required fee.

ITEM 6. Amend rule 761—524.6(325A) as follows:

761—524.6(325A) Amendment to a motor carrier permit or certificate.

524.6(1) Update to a motor carrier permit. To change the commodities being transported under a permit, an updated application must be submitted to the office of vehicle and motor carrier services. The updated application shall include the permit number and the required fee for a duplicate permit. Transporting of commodities not listed on the permit shall not commence until a new permit or temporary permit has been issued and is carried in the vehicle.

524.6(2) Change of name or address for a motor carrier permit or certificate. Notification of a name or address change shall be sent to the office of vehicle and motor carrier services within 30 days after the change. Notification shall include the permit or certificate number, old name or address, new name or address, and the required fee.

ITEM 7. Amend subrule 524.7(2) as follows:

524.7(2) Self-insurance. In lieu of maintaining the above insurance, intrastate carriers that also operate interstate and have been approved by a federal agency to self-insure may apply to the department to self-insure by submitting a written request to the office of vehicle and motor carrier services. The written request shall include a copy of the federal agency's approval. The department shall allow self-insurance as long as a federal agency has approved the carrier to self-insure and the motor carrier provides the department with copies of any information required by that federal agency. The department must be notified immediately by the motor carrier if there is any change in the status of the self-insurance for interstate operation.

ITEM 8. Amend rule 761—524.8(325A) as follows:

761—524.8(325A) Self-insurance for motor carriers of passengers.

524.8(1) Applications for self-insurance. A motor carrier of passengers with more than 25 motor vehicles may request self-insurance by submitting a written request to the office of vehicle and motor carrier services. The written request shall include a copy of the most recent audited financial statement and a vehicle list.

524.8(2) Review by the department. The department may request additional information. The department shall deny the request to self-insure or suspend existing approval if the motor carrier fails to meet the self-insurance standard. Approval of self-insurance is continuous. However, the motor carrier shall annually file audited financial statements with the office of vehicle and motor carrier services within 60 days after the end of the motor carrier's fiscal year.

524.8(3) No change.

ITEM 9. Amend rule 761—524.11(325A) as follows:

761—524.11(325A) Safety education seminar.

524.11(1) No change.

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524.11(2) Availability. The department shall provide an approved safety education seminar periodically. Information on the seminar schedule is available by mail from the Office of ~~Motor Vehicle Enforcement~~ Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box ~~10473~~ 10382, Des Moines, Iowa ~~50306-0473~~ 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; or by telephone at ~~(800)925-6469~~ (515)237-3268.

524.11(3) No change.

524.11(4) Exemption. Passenger carriers with vehicles not meeting the definition of a commercial vehicle as defined in Iowa Code section 321.1 are exempt from attending the safety education seminar and paying the seminar fee. A motor carrier certificate issued for such a carrier contains the statement: "limited to noncommercial vehicles only." If a motor carrier wishes to start operating vehicles that meet the definition of a commercial motor vehicle, the motor carrier must update its authority with the office of vehicle and motor carrier services. A motor carrier must pay the seminar fee and attend the seminar within six months of updating the certificate. A new motor carrier certificate removing the limitation would then be issued.

ITEM 10. Amend paragraph **524.12(1)“b”** as follows:

b. U.S. DOT number followed by the letters "IA." if the motor carrier has been issued a number by the Federal Motor Carrier Safety Administration.

ITEM 11. Amend rule 761—524.15(325A) as follows:

761—524.15(325A) Tariffs.

524.15(1) Requirements. All motor carriers of household goods shall maintain on file with the office of vehicle and motor carrier services a tariff stating the rates and charges that apply for the services performed under the permit.

524.15(2) No change.

524.15(3) Filing date. All changes to tariffs and supplements must be filed with the office of vehicle and motor carrier services at least seven days prior to the effective date. Tariffs, supplements or adoption notices issued in connection with applications for motor carriers of household goods may become effective on the date the permits are issued.

524.15(4) Copy to department. To file a tariff with the office of vehicle and motor carrier services, motor carriers of household goods or their agents shall submit a transmittal letter listing all the enclosed tariffs and include one copy of each tariff, supplement or revised page.

524.15(5) to 524.15(7) No change.

524.15(8) Tariff changes. All rates and charges which have been filed with the office of vehicle and motor carrier services must be allowed to become effective and remain in effect for a period of at least seven days before being changed, canceled or withdrawn. All tariffs, supplements and revised pages shall indicate changes from the preceding issue by use of the following symbols:

(R) to denote reductions

(A) to denote increases

(C) to denote changes, the result of which is neither an increase nor a reduction.

The proper symbol must be shown directly in connection with each change.

524.15(9) No change.

524.15(10) Application for special permission. Motor carriers of household goods and agents when making application for permission to establish rates, charges, or rules of the tariff on less than the statutory seven days' notice shall use the form prescribed by the office of vehicle and motor carrier services.

524.15(11) Powers of attorney and participation notices.

a. No change.

b. The original power of attorney shall be filed with the office of vehicle and motor carrier services and a copy sent to the agent or motor carrier of household goods on whose behalf the document was issued.

c. No change.

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524.15(12) Nonconforming tariffs. The office of vehicle and motor carrier services shall review tariffs that do not conform with subrules 524.15(1) to 524.15(11) to determine if they the tariffs contain the necessary information and if they are acceptable. Tariffs that are unacceptable shall be returned with an explanation.

ITEM 12. Amend rule 761—524.18(325A) as follows:

761—524.18(325A) Hearings. A person whose application for a motor carrier permit or certificate has been denied for a reason other than noncompliance with insurance requirements or whose motor carrier permit or certificate has been suspended or revoked for a reason other than noncompliance with insurance requirements may contest the decision in accordance with Iowa Code chapter 17A and 761—Chapter 13, ~~Iowa Administrative Code~~. The request for a hearing shall be submitted in writing to the director of the office of vehicle and motor carrier services. The request shall include, as applicable, the motor carrier's name, permit or certificate number, complete address and telephone number. The request must be submitted within 20 days after the date of the notice of suspension, revocation or denial.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/13/19.

ARC 4347C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to a temporary restricted license

The Department of Transportation hereby amends Chapter 620, "OWI and Implied Consent," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 321J as amended by 2018 Iowa Acts, House File 2338, sections 2 to 9.

Purpose and Summary

This rule making updates Chapter 620 to align with existing legal authority and Department practice. The amendment conforms rule 761—620.3(321J) with 2018 Iowa Acts, House File 2338, which significantly altered the requirements for obtaining a temporary restricted license (TRL) and installation of an ignition interlock device (IID) for operating while intoxicated (OWI) revocations.

Specifically, the legislation extended the requirement to install an IID as a condition of a TRL to a subset of OWI offenders who had not previously been required to install an IID as a condition of a TRL, for example, applicants whose test results demonstrated a blood-alcohol content of .08 to .10. The legislation also removed the periods of ineligibility for most OWI offenses so that an applicant no longer must wait a specified period of time after committing an OWI offense before the applicant may apply for a TRL. Finally, the legislation removed the driving location restrictions for an applicant obtaining a TRL authorized under Iowa Code chapter 321J.

The amendment also reflects a new TRL application form number and conforms the rule to requirements in Iowa Code chapter 321J requiring an IID to be installed in all vehicles owned or operated by the applicant as a condition of the TRL.

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Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 16, 2019, as **ARC 4229C**.

The Department received written comments from a law firm. The comments concerned the 2018 legislative requirement that a person applying for a temporary restricted license under Iowa Code chapter 321J must install an IID in all vehicles owned or operated. The law firm stated that its clients who did not commit an OWI but who happen to co-own a vehicle with an OWI offender are experiencing the consequences of an OWI offender's actions by having to drive a vehicle with an IID installed due to the requirement that an IID be installed in all vehicles owned or operated by the offender. The rule amendments comply with Iowa Code chapter 321J and 2018 legislation, and any changes to the administrative rules to address "vehicles owned or operated" must be preceded by a change in statutory requirements.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on February 20, 2019.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the 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 17, 2019.

The following rule-making action is adopted:

Amend rule 761—620.3(321J) as follows:

761—620.3(321J) Issuance of temporary restricted license.

620.3(1) Eligibility and application.

a. The department may issue a temporary restricted license to a person who is eligible under and for the purposes listed in Iowa Code section 321J.4 (except subsection 8), 321J.9, 321J.12 or 321J.20 chapter 321J. The department shall not issue a temporary restricted license to a person ~~who has a current suspension or revocation for any other reason, or~~ who is otherwise ineligible.

b. To apply for a temporary restricted license, an applicant shall, at any time before or during the revocation period, submit application Form ~~430100~~ 430400 to driver and identification services at the address in 761—620.2(321J). The application form ~~should~~ be furnished by the arresting officer. It may

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also be obtained upon oral or written request to driver and identification services ~~or by submitting Form 432018 to driver and identification services with the appropriate box checked.~~

~~e.~~— 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.

~~d. c.~~ A temporary restricted license issued for any purpose may include permission for the licensee to participate in the sobriety and drug monitoring program established pursuant to Iowa Code chapter 901D. For purposes of this chapter, a sobriety and drug monitoring program means the sobriety and drug monitoring program established pursuant to Iowa Code chapter 901D. If the licensee is required to participate in and comply with the sobriety and drug monitoring program as a condition of the license, the licensee shall notify the department of the jurisdiction to which the licensee is reporting in compliance with the program.

~~620.3(2) Statements.~~ A person applying for a temporary restricted license shall submit all of the following statements that apply to the person's situation. Each statement shall explain the need for the license and shall list specific places and times for the activity which can be verified by the department.

~~a.~~— A statement from the person's employer unless the person is self-employed including, when applicable, verification that the person's use of a child care facility is essential to the person's continued employment.

~~b.~~— A statement from the person.

~~c.~~— A statement from the health care provider if the person or the person's dependent requires continuing health care.

~~d.~~— A statement from the educational institution in which the person is enrolled.

~~e.~~— A statement from the substance abuse treatment program in which the person is participating.

~~f.~~— A copy of the court order for community service and a statement describing the assigned community service from the responsible supervisor.

~~g.~~— A statement from the child care provider.

~~620.3(3) 620.3(2) Additional requirements.~~ A person applying for a temporary restricted license shall also comply with all of the following requirements:

~~a.~~ Provide a description of all motor vehicles ~~to be~~ owned or operated under the temporary restricted license.

~~b.~~ Submit proof of financial responsibility under Iowa Code chapter 321A for all motor vehicles ~~to be~~ owned or operated under the temporary restricted license.

~~c.~~ Provide certification of installation of an approved ignition interlock device on every motor vehicle owned or operated.

~~d.~~ No change.

~~620.3(4) 620.3(3) Issuance and restrictions.~~

~~a. and b.~~ No change.

~~620.3(5) 620.3(4) Denial.~~ A person who has been denied a temporary restricted license or who contests the restrictions imposed by the department may request an informal settlement conference by submitting a written request to the director of driver and identification services at the address given in 761—620.2(321J). Following an unsuccessful informal settlement or instead of that procedure, the person may request a contested case hearing in accordance with rule 761—620.4(321J).

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