



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLIII  
March 24, 2021

NUMBER 20  
Pages 2149 to 2250

## CONTENTS IN THIS ISSUE

Pages 2160 to 2248 include **ARC 5519C** to **ARC 5538C**

### ADVISORY NOTICE

Public hearings: possible use of  
telephonic or electronic format due to  
COVID-19..... 2249

### AGENDA

Administrative rules review committee ..... 2153

### ALL AGENCIES

Agency identification numbers ..... 2158  
Citation of administrative rules..... 2151  
Schedule for rule making..... 2152

### CORRECTIONS DEPARTMENT[201]

Filed, Waivers, amendments to ch 7, 50,  
51 **ARC 5538C**..... 2199

### ECONOMIC DEVELOPMENT

#### AUTHORITY[261]

Notice, Petitions for rule making;  
removal of Iowa broadband deployment  
program and governance board, amend  
ch 197; rescind chs 411, 412 **ARC 5536C**..... 2160  
Notice, Enhance Iowa Board—waivers,  
amendments to ch 213 **ARC 5537C**..... 2162  
Notice, Rural housing needs assessment  
grant program—eligibility, 220.2,  
220.3(2)“a,” 220.4(1) **ARC 5535C**..... 2168  
Filed, Accelerated career education  
program, amendments to ch 20 **ARC 5524C**... 2202

### ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Filed, Update of rules, rescind ch 3;  
amend chs 4 to 6, 8, 15 **ARC 5525C** ..... 2208

### EXECUTIVE DEPARTMENT

Advisory Notice, Public hearings:  
possible use of telephonic or electronic  
format due to COVID-19..... 2249

### HUMAN SERVICES DEPARTMENT[441]

Notice, Child care assistance—fee  
schedule, 170.4(2)“a” **ARC 5533C** ..... 2170

### PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Notice, General procedures; impasse  
procedures; bargaining unit  
determination and representative  
certifications; retention and  
recertification elections, amendments  
to chs 1, 2, 4, 5, 7, 15 **ARC 5534C**..... 2174

### PUBLIC HEALTH DEPARTMENT[641]

Notice, Radiation, 41.1, 42.2, 42.10,  
42.13(5), 42.22, 42.26, 42.31(2)“e”(1)  
**ARC 5520C** ..... 2186  
Notice, Definition of “dust-lead hazard,”  
69.2 **ARC 5519C** ..... 2189  
Filed, School dental screenings, 51.9  
**ARC 5526C** ..... 2225  
Filed, Waivers, amendments to chs 69,  
131, 132, 134 to 136, 139, 144, 150,  
173 **ARC 5528C**..... 2227

### PUBLIC HEARINGS

Summarized list ..... 2156

### PUBLIC SAFETY DEPARTMENT[661]

Notice, Standards for electrical work, ch  
504 **ARC 5522C**..... 2191

**PUBLIC SAFETY DEPARTMENT[661] (Cont'd)**

Filed, Fire safe cigarette certification  
 program, amendments to ch 61 **ARC 5527C**... 2230

Filed Emergency, Standards for electrical  
 work, ch 504 **ARC 5523C**..... 2196

**REVENUE DEPARTMENT[701]**

Filed, Powers of attorney; tax information  
 disclosure designation, 5.7, 5.11, 7.6,  
 7.34 **ARC 5532C** ..... 2234

Filed, Taxable and exempt  
 sales—purchases by certain  
 government entities and  
 instrumentalities of government,  
 sales price, 18.5 **ARC 5530C** ..... 2242

Filed, Sales and use tax on  
 services—barbering, cosmetology,  
 esthetics, 26.9 **ARC 5529C**..... 2244

**TREASURER OF STATE**

Notice—Public funds interest rates ..... 2192

**USURY**

Notice ..... 2193

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Filed, Inspection and maintenance  
 plans—annual report, 25.3(2) **ARC 5531C** .... 2246

**WORKERS’ COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Notice, Payroll tax tables, 8.8 **ARC 5521C**..... 2194

## PREFACE

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

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

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

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

JACK EWING, Administrative Code Editor  
Publications Editing Office (Administrative Code)

Telephone: (515)281-6048  
Telephone: (515)281-3355

Email: [Jack.Ewing@legis.iowa.gov](mailto:Jack.Ewing@legis.iowa.gov)  
Email: [AdminCode@legis.iowa.gov](mailto:AdminCode@legis.iowa.gov)

### CITATION of Administrative Rules

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

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

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

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

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

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

## Schedule for Rule Making 2021

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 2, 2021	April 21, 2021
23	Friday, April 16, 2021	May 5, 2021
24	Friday, April 30, 2021	May 19, 2021

**PLEASE NOTE:**

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, April 9, at 9 a.m. in Room 103, State Capitol, Des Moines, Iowa. Instructions for participation by videoconference can be found here: [www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705](http://www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705). For more information, contact Jack Ewing at [Jack.Ewing@legis.iowa.gov](mailto:Jack.Ewing@legis.iowa.gov). The following rules will be reviewed:

#### **ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Petitions for rule making, 5.1, 5.4 Filed **ARC 5512C** ..... 3/10/21

#### **CORRECTIONS DEPARTMENT[201]**

Waivers, amendments to ch 7, 50, 51 Filed **ARC 5538C** ..... 3/24/21

#### **ECONOMIC DEVELOPMENT AUTHORITY[261]**

Accelerated career education program, amendments to ch 20 Filed **ARC 5524C**..... 3/24/21

Entrepreneur investment awards program, 102.3, 102.4, 102.7(1) Filed **ARC 5513C**..... 3/10/21

Petitions for rule making; removal of Iowa broadband deployment program and governance

board, amend ch 197; rescind chs 411, 412 Notice **ARC 5536C**..... 3/24/21

Enhance Iowa Board—waivers, amendments to ch 213 Notice **ARC 5537C** ..... 3/24/21

Rural housing needs assessment grant program—eligibility, 220.2, 220.3(2)“a,” 220.4(1)

Notice **ARC 5535C** ..... 3/24/21

#### **ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Water quality certification, 60.2, 61.2 Amended Notice **ARC 5508C** ..... 3/10/21

#### **ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]**

Update of rules, rescind ch 3; amend chs 4 to 6, 8, 15 Filed **ARC 5525C** ..... 3/24/21

#### **HUMAN SERVICES DEPARTMENT[441]**

Home health agency services—ordering and signing treatment plan, 78.9, 79.3(2)“d”(27),

83.2(1)“e,” 83.61(1)“k,” 83.82(1)“j” Filed **ARC 5487C**..... 3/10/21

Child development homes; child care homes, 110.6(3), 110.8(3)“e,” 110.14(1)“f,”

110.15(1)“e,” 120.8(3)“e” Filed **ARC 5488C** ..... 3/10/21

Child care assistance—fee schedule, 170.4(2)“a” Notice **ARC 5533C**..... 3/24/21

Subsidized guardianship program, 204.1 to 204.7 Notice **ARC 5505C**..... 3/10/21

#### **INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]“umbrella”

Comprehensive review of rules, amendments to chs 2, 5, 40, 41, 44 to 46, 48, 99, 100

Filed **ARC 5515C**..... 3/10/21

Fees, 5.56, 10.51, 20.13, 35.20(2)“a,” 50.12(3), 50.31, 50.32, 50.34, 50.71, 50.72, 100.18,

101.9, 102.3, 103.4 Notice **ARC 5499C**..... 3/10/21

Credit for reinsurance, 5.33, 112.7(1)“e” Filed **ARC 5514C**..... 3/10/21

Property and casualty insurance; self-study continuing education, 11.3(4)“b,” 11.5(7), 20.1,

20.2, 20.4 to 20.6, 20.11, 20.41, 20.43, 20.47(3), 20.71 Notice **ARC 5500C** ..... 3/10/21

#### **IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]**

Contribution rates; terms and requirements; death benefits and beneficiaries; open and

confidential records, amendments to chs 4, 5, 11 to 14, 17, 19 Filed **ARC 5489C** ..... 3/10/21

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

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Penalties for citations; waivers; rule making, amendments to chs 1, 3, 5 Notice **ARC 5511C**..... 3/10/21

Federal occupational safety and health standards for beryllium construction, cranes and

derricks—adoption by reference, 10.4, 26.1 Filed **ARC 5490C** ..... 3/10/21

#### **NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Deer hunting by residents, 106.1(1)“a,” 106.1(6), 106.2(5), 106.4(5), 106.6 Notice **ARC 5509C** ..... 3/10/21

Bobcat seasonal bag limit of one—addition of Delaware, Dubuque, and Jones Counties,

108.7 Notice **ARC 5510C** ..... 3/10/21

#### **NATURAL RESOURCES DEPARTMENT[561]**

Waivers, amendments to ch 10 Filed **ARC 5516C**..... 3/10/21

Special nonresident deer and turkey hunting licenses—removal of legislative committee, 12.2, 12.4 to 12.7, 12.10 Filed **ARC 5517C**..... 3/10/21

**PUBLIC EMPLOYMENT RELATIONS BOARD[621]**

General procedures; impasse procedures; bargaining unit determination and representative certifications; retention and recertification elections, amendments to chs 1, 2, 4, 5, 7, 15 Notice **ARC 5534C** ..... 3/24/21

**PUBLIC HEALTH DEPARTMENT[641]**

Radiation, 41.1, 42.2, 42.10, 42.13(5), 42.22, 42.26, 42.31(2)“e”(1) Notice **ARC 5520C** ..... 3/24/21  
School dental screenings, 51.9 Filed **ARC 5526C**..... 3/24/21  
Definition of “dust-lead hazard,” 69.2 Notice **ARC 5519C** ..... 3/24/21  
Waivers, amendments to chs 69, 131, 132, 134 to 136, 139, 144, 150, 173 Filed **ARC 5528C** ..... 3/24/21  
Lead-based paint activities—licensure, criminal convictions, 70.2, 70.5(3) Notice **ARC 5506C** ..... 3/10/21  
Emergency medical services—licensure, criminal convictions, 131.2, 131.3, 131.7(4)“u” Notice **ARC 5507C** ..... 3/10/21

**PUBLIC SAFETY DEPARTMENT[661]**

Standards for electrical work, ch 504 Notice **ARC 5522C**, also Filed Emergency **ARC 5523C** ..... 3/24/21  
Fire service training bureau—programs, services, fees, 53.2 Notice **ARC 5501C** ..... 3/10/21  
Fire safe cigarette certification program, amendments to ch 61 Filed **ARC 5527C** ..... 3/24/21  
Firefighter training and certification, amendments to ch 251 Notice **ARC 5502C**..... 3/10/21

**REVENUE DEPARTMENT[701]**

Powers of attorney; tax information disclosure designation, 5.7, 5.11, 7.6, 7.34 Filed **ARC 5532C**..... 3/24/21  
Taxable and exempt sales—purchases by certain government entities and instrumentalities of government, sales price, 18.5 Filed **ARC 5530C** ..... 3/24/21  
Broadband infrastructure grant exemption, 40.84, 53.28, 59.30 Amended Notice **ARC 5503C** ..... 3/10/21  
Sales and use tax on services—barbering, cosmetology, esthetics, 26.9 Filed **ARC 5529C** ..... 3/24/21  
Withholding—electronic filing requirements, deadline for furnishing statements, 46.3(3) Filed **ARC 5518C**..... 3/10/21  
Bundled transactions, adopt ch 216; amend ch 231 Notice **ARC 5504C** ..... 3/10/21

**TRANSPORTATION DEPARTMENT[761]**

Logo signing, 118.2, 118.4, 118.5(1)“a” Filed **ARC 5491C** ..... 3/10/21  
Lighting at primary-secondary intersections, 136.1, 136.2, 136.6 Filed **ARC 5492C** ..... 3/10/21  
Definition of “vertical infrastructure,” 180.2, 180.3 Filed **ARC 5493C** ..... 3/10/21  
International Registration Plan (IRP) for fleet vehicles, amendments to ch 500 Filed **ARC 5494C** ..... 3/10/21  
Driver’s license—issuance, examination, 602.11(1), 602.12(1), 602.13(1), 604.50, 605.15(1), 605.26, 607.16 Filed **ARC 5495C** ..... 3/10/21  
Sanctions, 615.3, 615.15, 615.21(1), 615.26, 615.38, 615.40, 615.43 to 615.45 Filed **ARC 5496C**..... 3/10/21  
Applications—training fellowships, special projects; public transit bureau; definition of “urban transit system,” 920.2, 920.3, 920.4(2) Filed **ARC 5497C** ..... 3/10/21  
Capital match revolving loan fund; public transit infrastructure grant program, 923.1(2), 923.3(2), 924.2, 924.3, 924.10(4), 924.16(3) Filed **ARC 5498C**..... 3/10/21

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”  
Inspection and maintenance plans—annual report, 25.3(2) Filed **ARC 5531C**..... 3/24/21

**WORKERS’ COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”  
Payroll tax tables, 8.8 Notice **ARC 5521C** ..... 3/24/21

## ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Waylon Brown  
2415 Highway 218  
Osage, Iowa 50461

Senator Jesse Green  
2344 360th Street  
Harcourt, Iowa 50544

Senator Robert Hogg  
P.O. Box 1361  
Cedar Rapids, Iowa 52406

Senator Pam Jochum  
2368 Jackson Street  
Dubuque, Iowa 52001

Senator Zach Whiting  
P.O. Box 385  
Spirit Lake, Iowa 51360

Jack Ewing  
**Administrative Code Editor**  
Capitol  
Des Moines, Iowa 50319  
Telephone: (515)281-6048  
Fax: (515)281-8451  
Email: [Jack.Ewing@legis.iowa.gov](mailto:Jack.Ewing@legis.iowa.gov)

Representative Jon Jacobsen  
1113 Arbor Ridge Drive  
Council Bluffs, Iowa 51503

Representative Megan Jones  
4470 Highway 71  
Sioux Rapids, Iowa 50585

Representative Amy Nielsen  
North Liberty, Iowa

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

Representative Mike Sexton  
2202 Ogden Avenue  
Rockwell City, Iowa 50579

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

**NOTE: See also the Advisory Notice on page 2249.**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Water quality certification, 60.2, 61.2 IAB 3/10/21 <b>ARC 5508C</b>	Via video/conference call Contact Katie Greenstein Email: <a href="mailto:katie.greenstein@dnr.iowa.gov">katie.greenstein@dnr.iowa.gov</a>	March 30, 2021 3 to 4 p.m.
---	--	-------------------------------

**INSURANCE DIVISION[191]**

Fees, 5.56, 10.51, 20.13, 35.20(2)“a,” 50.12(3), 50.31, 50.32, 50.34, 50.71, 50.72, 100.18, 101.9, 102.3, 103.4 IAB 3/10/21 <b>ARC 5499C</b>	Via conference call Contact Tracy Swalwell Email: <a href="mailto:tracy.swalwell@iid.iowa.gov">tracy.swalwell@iid.iowa.gov</a>	April 15, 2021 10 to 11 a.m. (If requested)
---	--	---

Property and casualty insurance; self-study continuing education, 11.3(4)“b,” 11.5(7), 20.1, 20.2, 20.4 to 20.6, 20.11, 20.41, 20.43, 20.47(3), 20.71 IAB 3/10/21 <b>ARC 5500C</b>	Via conference call Contact Tracy Swalwell Email: <a href="mailto:tracy.swalwell.iid@iowa.gov">tracy.swalwell.iid@iowa.gov</a>	April 7, 2021 9 a.m. (If requested)
---	--	---

**LABOR SERVICES DIVISION[875]**

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

**NATURAL RESOURCE COMMISSION[571]**

Deer hunting by residents, 106.1(1)“a,” 106.1(6), 106.2(5), 106.4(5), 106.6 IAB 3/10/21 <b>ARC 5509C</b>	Via video/conference call Contact Chris Ensminger Email: <a href="mailto:chris.ensminger@dnr.iowa.gov">chris.ensminger@dnr.iowa.gov</a>	March 30, 2021 1 to 2 p.m.
---	---	-------------------------------

Bobcat seasonal bag limit of one—addition of Delaware, Dubuque, and Jones Counties, 108.7 IAB 3/10/21 <b>ARC 5510C</b>	Via video/conference call Contact Chris Ensminger Email: <a href="mailto:chris.ensminger@dnr.iowa.gov">chris.ensminger@dnr.iowa.gov</a>	March 30, 2021 12 noon to 1 p.m.
---	---	-------------------------------------

**PUBLIC EMPLOYMENT RELATIONS BOARD[621]**

General procedures; impasse procedures; bargaining unit determination and representative certifications; retention and recertification elections, amendments to chs 1, 2, 4, 5, 7, 15 IAB 3/24/21 <b>ARC 5534C</b>	Via video conference Contact the agency Email: <a href="mailto:iaperb@iowa.gov">iaperb@iowa.gov</a>	April 14, 2021 10 a.m.
---	---	---------------------------



**REVENUE DEPARTMENT[701]**

Broadband infrastructure grant  
exemption, 40.84, 53.28, 59.30  
IAB 3/10/21 **ARC 5503C**

Via Google Meet:  
[meet.google.com/rmc-ygmu-hqm](https://meet.google.com/rmc-ygmu-hqm)  
Via telephone: +1 507.589.4983  
PIN: 504 479 534#  
Mute telephone or microphone upon  
entering the meeting

March 30, 2021  
10 to 11 a.m.

Bundled transactions, adopt ch  
216; amend ch 231  
IAB 3/10/21 **ARC 5504C**

Via video/conference call  
Contact Tim Reilly  
Email: [tim.reilly@iowa.gov](mailto:tim.reilly@iowa.gov)

March 30, 2021  
2 to 3 p.m.  
(If requested)

**UTILITIES DIVISION[199]**

Hazardous liquid pipelines  
and underground storage,  
amendments to ch 13  
IAB 1/27/21 **ARC 5403C**

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

April 15, 2021  
1:30 to 4:30 p.m.

Electric utility service,  
amendments to ch 20  
IAB 2/24/21 **ARC 5475C**

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

April 13, 2021  
1:30 to 4 p.m.

The following list will be updated as changes occur.

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

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

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

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

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

**ARC 5536C****ECONOMIC DEVELOPMENT AUTHORITY[261]****Notice of Intended Action****Proposing rule making related to petitions for rule making and Iowa broadband deployment program and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 197, “Petition for Rule Making,” and rescind Chapter 411, “Iowa Broadband Deployment Program,” and Chapter 412, “Fair Information Practices, Waiver and Variance, and Petition for Rule Making,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 15.106A and 17A.7.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 17A.7 and 2020 Iowa Acts, House File 2389.

*Purpose and Summary*

The proposed changes to Chapter 197, regarding petitions for rule making, amend the chapter to remove outdated references and to conform to Iowa Code section 17A.7 as amended by 2020 Iowa Acts, House File 2389.

The authority also proposes to rescind Chapter 411, regarding the Iowa Broadband Deployment Program, and Chapter 412, regarding Iowa Broadband Deployment Governance Board practices. The referenced board was eliminated in 2013, and current broadband programs are administered by the Office of the Chief Information Officer. Additionally, Chapter 412 contains an inconsistency with Iowa Code section 17A.9A as amended by House File 2389 regarding rule waivers.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*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 Authority no later than 4:30 p.m. on April 13, 2021. Comments should be directed to:

Lisa Connell  
Iowa Economic Development Authority  
1963 Bell Avenue, Suite 200  
Des Moines, Iowa 50315  
Phone: 515.348.6163  
Email: [lisa.connell@iowaeda.com](mailto:lisa.connell@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 subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 261—197.1(17A) as follows:

**261—197.1(17A) Petition for rule making.** Any person or state agency may file a petition for rule making with the ~~department authority~~ at the Director’s Office, ~~Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309-1819~~ Iowa Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315, Attn: Legal Counsel. Petitions for rule making may be delivered, mailed, or sent by email or other electronic means reasonably calculated to reach the intended recipient. A petition is deemed filed when it is received by ~~that office~~ the authority. The department authority must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department authority an extra copy for this purpose. The petition must be typewritten, or legibly handwritten in ink, and must substantially conform to the following form:

<u>BEFORE THE DEPARTMENT OF IOWA ECONOMIC DEVELOPMENT AUTHORITY</u>		
Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	}	PETITION FOR RULE MAKING

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the ~~department’s~~ authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner’s arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided for by subrule 197.4(1).

**197.1(1)** The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative, and a statement indicating the person to whom communications concerning the petition should be directed.

**197.1(2)** The ~~department~~ authority may deny a petition because it does not substantially conform to the required form.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 2. Amend rule 261—197.2(17A) as follows:

**261—197.2(17A) Briefs.** The petitioner may attach a brief to the petition in support of the action urged in the petition. The ~~department~~ authority may request a brief from the petitioner or from any other person concerning the substance of the petition.

ITEM 3. Amend rule 261—197.3(17A) as follows:

**261—197.3(17A) Inquiries.** Inquiries concerning the status of a petition for rule making may be made to the ~~Director's Office, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309-1819, Attn: Legal Counsel~~ address indicated in rule 261—197.1(17A).

ITEM 4. Amend rule 261—197.4(17A) as follows:

**261—197.4(17A) Department Authority consideration.**

**197.4(1) *Forwarding of petition and meeting Meeting.*** ~~Within five working days after the filing of a petition, the department shall submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by the petitioner in the petition, the department authority shall schedule a brief and informal meeting between the petitioner and a member of the authority staff of the department to discuss the petition. The department authority may request the petitioner to submit additional information or argument concerning the petition. The department authority may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the department authority by any person.~~

**197.4(2) *Action on petition.*** Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the ~~department~~ authority shall, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the ~~department~~ authority mails or delivers the required notification to petitioner. The authority shall submit the petition and the disposition of the petition to the administrative rules review committee.

**197.4(3) *Denial of petition for nonconformance with form.*** Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for ~~the department's~~ rejection of the petition.

ITEM 5. Amend **261—Chapter 197**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 17A.7 ~~as amended by 1998 Iowa Acts, chapter 1202, section 11.~~

ITEM 6. Rescind and reserve **261—Chapter 411**.

ITEM 7. Rescind and reserve **261—Chapter 412**.

**ARC 5537C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Notice of Intended Action**

**Proposing rule making related to waivers of enhance Iowa board rules  
and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 213, “Enhance 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 section 15F.104.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*State or Federal Law Implemented*

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

*Purpose and Summary*

Pursuant to Chapter 213 and Iowa Code section 17A.9A, the Enhance Iowa Board (Board) may grant waivers from administrative rules under specific circumstances. 2020 Iowa Acts, House File 2389, amended Iowa Code section 17A.9A to remove references to “variances” and change how agencies report rule waivers that have been granted or denied. The proposed amendments to Chapter 213 conform to the changes implemented by 2020 Iowa Acts, House File 2389. The amendments also clarify that a waiver may be granted only in response to a petition and may not be granted on the Board’s own motion.

*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 261—Chapter 213.

*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 Authority no later than 4:30 p.m. on April 13, 2021. Comments should be directed to:

Lisa Connell  
Iowa Economic Development Authority  
1963 Bell Avenue, Suite 200  
Des Moines, Iowa 50315  
Phone: 515.348.6163  
Email: [lisa.connell@iowaeda.com](mailto:lisa.connell@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 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:

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 1. Amend **261—Chapter 213**, title, as follows:  
 ENHANCE IOWA BOARD: UNIFORM WAIVER  
 AND VARIANCE RULES

ITEM 2. Amend rule 261—213.1(17A,ExecOrd11) as follows:

**261—213.1(17A,ExecOrd11 15F) Applicability.** This chapter outlines a uniform process for the granting of waivers ~~or variances~~ from rules adopted by the board. The intent of this chapter is to allow persons to seek exceptions to the application of rules issued by the board.

**213.1(1) Definitions.**

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

“Person” means an individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any legal entity.

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

**213.1(2) Authority.**

a. A waiver ~~or variance~~ from rules adopted by the board may be granted in accordance with this chapter if (1) the board has authority to promulgate the rule from which waiver ~~or variance~~ is requested or has final decision-making authority over a contested case in which a waiver ~~or variance~~ is requested; and (2) no statute or rule otherwise controls the grant of a waiver ~~or variance~~ from the rule from which waiver ~~or variance~~ is requested.

b. No waiver ~~or variance~~ may be granted from a requirement which is imposed by statute. Any waiver ~~or variance~~ must be consistent with statute.

ITEM 3. Amend rule 261—213.2(17A,ExecOrd11) as follows:

**261—213.2(17A,ExecOrd11 15F) Board discretion.** The decision on whether the circumstances justify the granting of a waiver ~~or variance~~ shall be made at the discretion of the board upon consideration of all relevant factors.

**213.2(1) Criteria for waiver ~~or variance~~.** The board may, in response to a completed petition ~~or on its own motion~~, grant a waiver ~~or variance~~ from a rule, in whole or in part, as applied to the circumstances of a specified situation if the board finds each of the following:

a. Application of the rule to the person at issue would result in undue hardship ~~or injustice~~ to that person; and

b. Waiver ~~or variance~~ on the basis of the particular circumstances relative to that specified person 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, 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.

In determining whether waiver ~~or variance~~ should be granted, the board shall consider whether the underlying public interest policies and legislative intent of the rules are substantially equivalent to full compliance with the rule. When the rule from which a waiver ~~or variance~~ is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all licensees, grantees and constituents.

**213.2(2) Special waiver ~~or variance~~ rules not precluded.** These uniform waiver ~~and variance~~ rules shall not preclude the board from granting waivers ~~or variances~~ in other contexts or on the basis of other standards if a statute or other board rule authorizes the board to do so, and the board deems it appropriate to do so.



ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 4. Amend rule 261—213.3(17A,ExecOrd11) as follows:

**261—213.3(17A,ExecOrd11 15F) Requester's responsibilities in filing a waiver or variance petition.**

**213.3(1) Application Petition.** All petitions for waiver or variance must be submitted in writing to the Enhance Iowa Board, ~~200 East Grand~~ 1963 Bell Avenue, Suite 200, Des Moines, Iowa ~~50309-1819~~ 50315, Attention: Legal Counsel. Petitions for waiver may be delivered, mailed, or sent by email or other electronic means reasonably calculated to reach the intended recipient. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

**213.3(2) Content of petition.** A petition for waiver or variance shall include the following information where applicable and known to the requester (for an example of a petition for waiver or variance, see Exhibit A at the end of this chapter):

- a. A description and citation of the specific rule from which a waiver or variance is requested.
- b. The specific waiver or variance requested, including the precise scope and operative period that the waiver or variance will extend.
- c. The relevant facts that the petitioner believes would justify a waiver or variance.
- d. A signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver or variance.
- e. A history of any prior contacts between the board and the petitioner relating to the regulated activity, license, grant, loan or other financial assistance affected by the proposed waiver or variance, including a description of each affected license, grant, loan or other financial assistance held by the requester, 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. Any information known to the requester regarding the board's treatment of similar cases.
- g. 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. The name, address, and telephone number of any person or entity that would be adversely affected by the grant of a petition.
- i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver or variance.
- j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver or variance.

**213.3(3) Burden of persuasion.** When a petition is filed for a waiver or variance from a board rule, the burden of persuasion shall be on the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant the petitioner a waiver or variance.

ITEM 5. Amend rule 261—213.4(17A,ExecOrd11) as follows:

**261—213.4(17A,ExecOrd11 15F) Notice.** The board shall acknowledge a petition upon receipt. The board shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. In addition, the board may give notice to other persons. ~~To accomplish this notice provision, the~~ The board may require the petitioner to serve the notice and a concise summary of the contents of the petition on all persons to whom notice is required by any provision of law or who may be impacted by the requested waiver, and provide a written statement to the board attesting that notice has been provided and attach a copy of the notice and summary to the written statement.

ITEM 6. Amend rule 261—213.5(17A,ExecOrd11) as follows:

**261—213.5(17A,ExecOrd11 15F) Board responsibilities regarding petition for waiver or variance.**

**213.5(1) Additional information.** Prior to issuing an order granting or denying a waiver or variance, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's designee, a committee of the board, or a quorum of the board.

**213.5(2) *Hearing procedures.*** The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply in three situations: (a) to any petition for a waiver ~~or variance~~ of rule filed within a contested case; (b) when the board so provides by rule or order; or (c) when a statute so requires.

**213.5(3) *Ruling.*** An order granting or denying a waiver ~~or variance~~ shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

**213.5(4) *Conditions.*** The board may condition the grant of the waiver ~~or variance~~ on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

**213.5(5) *Time for ruling.*** The board shall grant or deny a petition for a waiver ~~or variance~~ as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

**213.5(6) *When deemed denied.*** Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board.

**213.5(7) *Service of order.*** Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

ITEM 7. Rescind rule 261—213.6(17A,ExecOrd11) and adopt the following **new** rule in lieu thereof:

**261—213.6(17A,15F) *Submission of waiver information.*** Within 60 days of granting or denying a waiver, the board shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rule(s) for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by the waived rules, and a general summary of the reasons justifying the authority's actions on waiver requests. If practicable, the report shall detail the extent to which granting a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

ITEM 8. Amend rule 261—213.7(17A,ExecOrd11) as follows:

**261—213.7(17A,ExecOrd11 15F) *Voiding or cancellation.*** A waiver ~~or variance~~ is void if the material facts upon which the request is based are not true or if material facts have been withheld. The board may at any time cancel a waiver ~~or variance~~ upon appropriate notice if the board finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver ~~or variance~~ have failed to achieve the objectives of the statute, or the requester has failed to comply with the conditions of the order.

ITEM 9. Amend rule 261—213.8(17A,ExecOrd11) as follows:

**261—213.8(17A,ExecOrd11 15F) *Violations.*** Violation of conditions in the waiver ~~or variance~~ approval is the equivalent of violation of the particular rule for which the waiver ~~or variance~~ is granted and is subject to the same remedies or penalties.

ITEM 10. Amend rule 261—213.9(17A,ExecOrd11) as follows:

**261—213.9(17A,ExecOrd11 15F) *Defense.*** After the board issues an order granting a waiver ~~or variance~~, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 11. Amend rule 261—213.10(17A,ExecOrd11) as follows:

**261—213.10(17A,ExecOrd11 15F) 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 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 undue 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~~:

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

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 undue 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 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 Enhance Iowa Board, ~~200 East Grand~~ 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50309-1819 ~~50315~~, Attention: Legal Counsel. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

ITEM 12. Amend ~~261~~—**Chapter 213**, implementation sentence, as follows:

These rules are intended to implement ~~Executive Order Number 11, Iowa Code chapter 17A, Iowa Code sections 17A.9A and Iowa Code section 15F.102.~~

**ARC 5535C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Notice of Intended Action**

**Proposing rule making related to rural housing needs assessment grant program and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 220, “Rural Housing Needs Assessment Grant Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 15.106A and 2019 Iowa Acts, Senate File 608.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 608.

*Purpose and Summary*

The Rural Housing Needs Assessment Grant Program, administered pursuant to 2019 Iowa Acts, Senate File 608, supports the interpretation and implementation of hard data and housing-related information specific to the communities applying for financial assistance under the program. Under the current rules, only an Iowa city is an eligible applicant. The proposed amendments would allow applications by cities, counties, or entities that have entered into agreements with a qualified city or county pursuant to Iowa Code chapter 28E.

*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.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Waivers*

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

*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 Authority no later than 4:30 p.m. on April 13, 2021. Comments should be directed to:

Lisa Connell  
Iowa Economic Development Authority  
1963 Bell Avenue, Suite 200  
Des Moines, Iowa 50315  
Phone: 515.348.6163  
Email: [lisa.connell@iowaeda.com](mailto:lisa.connell@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 subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 261—220.2(88GA,SF608) as follows:

**261—220.2(88GA,SF608) Definitions.** For purposes of this chapter, unless the context otherwise requires:

“*Agreement*” means a contract for financial assistance under the program describing the terms on which financial assistance is to be provided.

“*Applicant*” means an Iowa ~~city~~ community applying for financial assistance under the program. ~~The terms “applicant” and “community” may be used interchangeably in this chapter.~~

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

“*Community*” means a county, an incorporated city, or a community designee.

“*Community designee*” means a legal entity established or designated by a county or incorporated city in an agreement pursuant to Iowa Code chapter 28E for the purposes of evaluating housing needs.

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

“*Financial assistance*” means a grant made by the authority to an applicant approved for funding under the program.

“*Program*” means the procedures, agreement, terms, and assistance established and provided pursuant to this chapter.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 2. Amend paragraph **220.3(2)“a”** as follows:

*a. Forms.* All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the authority. Information about the program, the application, and application instructions may be obtained by contacting the authority or by visiting the authority’s website: Iowa Economic Development Authority, Community Development Division, ~~200 East Grand Avenue, Des Moines, Iowa 50309, (515)328-3000, [iowaeconomicdevelopment.com](http://iowaeconomicdevelopment.com)~~ 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315, (515)348-6200, [iowaeda.com](http://iowaeda.com).

ITEM 3. Amend subrule 220.4(1) as follows:

**220.4(1) Program eligibility.** An applicant must meet the following eligibility criteria to qualify for financial assistance under this program:

- a.* The applicant must be an Iowa ~~city~~ community as defined in rule 261—220.2(88GA,SF608).
- b.* ~~The~~ An applicant that is an incorporated city must have a population of 20,000 or fewer and shall not be contiguous to a city with a population of 40,000 or greater. An applicant that is a county shall be one of the 88 least populous counties in the state. An applicant that is a community designee shall have entered an agreement pursuant to Iowa Code chapter 28E with an incorporated city or county meeting the population criteria in this paragraph.
- c. to h.* No change.

**ARC 5533C**

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rule making related to child care assistance fees  
and providing an opportunity for public comment**

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

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 234.6.

*Purpose and Summary*

The Department is proposing to revise the Child Care Assistance (CCA) fee chart based on the updated federal poverty levels, which are effective July 1, 2021. The annual poverty level update allows families that have received raises throughout the previous year to maintain eligibility for CCA without paying increased fees. The fee schedule changes are effective for eligibility determinations made on or after July 1, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 13, 2021. Comments should be directed to:

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

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend paragraph **170.4(2)“a”** as follows:

*a. Sliding fee schedule.*

(1) The fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, ~~2020~~ 2021:

Level	Monthly Income According to Family Size													Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	11	12	13+	1	2	3 or more
A	\$1,011	\$1,365	\$1,720	\$2,075	\$2,429	\$2,784	\$3,139	\$3,493	\$3,848	\$4,203	\$4,557	\$4,912	\$5,267	\$0.00	\$0.00	\$0.00
	\$1,020	\$1,379	\$1,739	\$2,099	\$2,458	\$2,817	\$3,177	\$3,536	\$3,895	\$4,255	\$4,614	\$4,973	\$5,333			
B	\$1,064	\$1,437	\$1,810	\$2,184	\$2,557	\$2,930	\$3,304	\$3,677	\$4,050	\$4,424	\$4,797	\$5,170	\$5,544	\$0.20	\$0.45	\$0.70
	\$1,074	\$1,452	\$1,830	\$2,209	\$2,587	\$2,965	\$3,344	\$3,722	\$4,100	\$4,479	\$4,857	\$5,235	\$5,614			
C	\$1,094	\$1,477	\$1,861	\$2,245	\$2,629	\$3,012	\$3,397	\$3,780	\$4,163	\$4,548	\$4,931	\$5,315	\$5,699	\$0.45	\$0.70	\$0.95
	\$1,104	\$1,493	\$1,881	\$2,271	\$2,659	\$3,048	\$3,438	\$3,826	\$4,215	\$4,604	\$4,993	\$5,382	\$5,771			
D	\$1,124	\$1,517	\$1,911	\$2,306	\$2,700	\$3,094	\$3,489	\$3,883	\$4,277	\$4,672	\$5,066	\$5,460	\$5,854	\$0.70	\$0.95	\$1.20
	\$1,134	\$1,533	\$1,932	\$2,333	\$2,732	\$3,131	\$3,531	\$3,930	\$4,330	\$4,730	\$5,129	\$5,528	\$5,928			
E	\$1,155	\$1,560	\$1,965	\$2,371	\$2,776	\$3,181	\$3,587	\$3,992	\$4,397	\$4,803	\$5,207	\$5,612	\$6,018	\$0.95	\$1.20	\$1.45
	\$1,166	\$1,576	\$1,987	\$2,398	\$2,808	\$3,219	\$3,630	\$4,040	\$4,451	\$4,862	\$5,273	\$5,683	\$6,094			
F	\$1,187	\$1,602	\$2,018	\$2,435	\$2,851	\$3,267	\$3,684	\$4,100	\$4,516	\$4,933	\$5,349	\$5,765	\$6,182	\$1.20	\$1.45	\$1.70
	\$1,198	\$1,619	\$2,041	\$2,463	\$2,885	\$3,306	\$3,729	\$4,151	\$4,572	\$4,995	\$5,416	\$5,838	\$6,260			
G	\$1,220	\$1,647	\$2,075	\$2,504	\$2,931	\$3,359	\$3,788	\$4,215	\$4,643	\$5,071	\$5,499	\$5,927	\$6,355	\$1.45	\$1.70	\$1.95
	\$1,231	\$1,665	\$2,098	\$2,532	\$2,966	\$3,399	\$3,833	\$4,267	\$4,700	\$5,135	\$5,568	\$6,001	\$6,436			
H	\$1,253	\$1,692	\$2,131	\$2,572	\$3,011	\$3,450	\$3,891	\$4,330	\$4,769	\$5,210	\$5,649	\$6,088	\$6,529	\$1.70	\$1.95	\$2.20
	\$1,265	\$1,710	\$2,155	\$2,601	\$3,046	\$3,492	\$3,938	\$4,383	\$4,828	\$5,274	\$5,720	\$6,165	\$6,611			
I	\$1,288	\$1,740	\$2,191	\$2,644	\$3,095	\$3,547	\$4,000	\$4,451	\$4,903	\$5,355	\$5,807	\$6,259	\$6,711	\$1.95	\$2.20	\$2.45
	\$1,300	\$1,758	\$2,215	\$2,674	\$3,132	\$3,589	\$4,048	\$4,506	\$4,963	\$5,422	\$5,880	\$6,337	\$6,796			
J	\$1,323	\$1,787	\$2,251	\$2,716	\$3,180	\$3,644	\$4,109	\$4,572	\$5,036	\$5,501	\$5,965	\$6,429	\$6,894	\$2.20	\$2.45	\$2.70
	\$1,336	\$1,806	\$2,276	\$2,747	\$3,217	\$3,687	\$4,158	\$4,628	\$5,098	\$5,570	\$6,040	\$6,510	\$6,981			
K	\$1,360	\$1,837	\$2,314	\$2,792	\$3,269	\$3,746	\$4,224	\$4,700	\$5,177	\$5,655	\$6,132	\$6,609	\$7,087	\$2.45	\$2.70	\$2.95
	\$1,373	\$1,856	\$2,339	\$2,824	\$3,307	\$3,790	\$4,275	\$4,758	\$5,241	\$5,726	\$6,209	\$6,692	\$7,177			
L	\$1,397	\$1,887	\$2,377	\$2,868	\$3,358	\$3,848	\$4,339	\$4,829	\$5,318	\$5,809	\$6,299	\$6,789	\$7,280	\$2.70	\$2.95	\$3.20
	\$1,410	\$1,907	\$2,403	\$2,901	\$3,397	\$3,894	\$4,391	\$4,888	\$5,384	\$5,882	\$6,378	\$6,874	\$7,372			
M	\$1,436	\$1,940	\$2,443	\$2,948	\$3,452	\$3,955	\$4,460	\$4,964	\$5,467	\$5,972	\$6,476	\$6,979	\$7,484	\$2.95	\$3.20	\$3.45
	\$1,450	\$1,960	\$2,470	\$2,982	\$3,492	\$4,003	\$4,514	\$5,024	\$5,535	\$6,046	\$6,557	\$7,067	\$7,579			
N	\$1,475	\$1,993	\$2,510	\$3,029	\$3,546	\$4,063	\$4,582	\$5,099	\$5,616	\$6,135	\$6,652	\$7,169	\$7,688	\$3.20	\$3.45	\$3.70
	\$1,489	\$2,013	\$2,538	\$3,063	\$3,587	\$4,112	\$4,637	\$5,161	\$5,685	\$6,211	\$6,735	\$7,259	\$7,785			
O	\$1,517	\$2,048	\$2,580	\$3,113	\$3,645	\$4,177	\$4,710	\$5,242	\$5,773	\$6,307	\$6,838	\$7,370	\$7,903	\$3.45	\$3.70	\$3.95
	\$1,531	\$2,070	\$2,609	\$3,149	\$3,688	\$4,227	\$4,767	\$5,306	\$5,845	\$6,385	\$6,924	\$7,463	\$8,003			
P	\$1,558	\$2,104	\$2,650	\$3,198	\$3,744	\$4,291	\$4,838	\$5,384	\$5,931	\$6,478	\$7,025	\$7,571	\$8,118	\$3.70	\$3.95	\$4.20
	\$1,573	\$2,126	\$2,680	\$3,235	\$3,788	\$4,342	\$4,897	\$5,450	\$6,004	\$6,559	\$7,112	\$7,666	\$8,221			
Q	\$1,602	\$2,163	\$2,725	\$3,288	\$3,849	\$4,411	\$4,974	\$5,535	\$6,097	\$6,660	\$7,221	\$7,783	\$8,346	\$3.95	\$4.20	\$4.45
	\$1,617	\$2,186	\$2,755	\$3,325	\$3,894	\$4,463	\$5,034	\$5,603	\$6,172	\$6,743	\$7,312	\$7,881	\$8,451			





HUMAN SERVICES DEPARTMENT[441](cont'd)

- (2) To use the chart:
1. Find the family size used in determining income eligibility for service.
  2. Move across the monthly income table to the column headed by that number.
  3. Move down the column for the applicable family size to the highest figure that is equal to or less than the family's gross monthly income. Income at or above that amount (but less than the amount in the next row) corresponds to the fees in the last three columns of that row.
  4. Choose the fee that corresponds to the number of children in the family who receive child care assistance.

## ARC 5534C

### PUBLIC EMPLOYMENT RELATIONS BOARD[621]

#### Notice of Intended Action

#### **Proposing rule making related to agency procedures, bargaining unit determination and representative certifications, and retention and recertification elections and providing an opportunity for public comment**

The Public Employment Relations Board hereby proposes to amend Chapter 1, "General Provisions," Chapter 2, "General Practice and Hearing Procedures," Chapter 4, "Bargaining Unit and Bargaining Representative Determination," Chapter 5, "Elections," Chapter 7, "Impasse Procedures," and Chapter 15, "Retention and Recertification Elections," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 20.6(5).

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 20.

#### *Purpose and Summary*

This Notice of Intended Action affects rules relating to general procedures of the agency, impasse procedures, bargaining unit determination and representative certifications, and retention and recertification elections. The proposed amendments update language in the general procedures of the agency to provide additional guidance and clarity, and they update rules relating to impasse, bargaining unit determinations and bargaining representative certifications, and retention and recertification elections. The proposed amendments also increase election fees. The agency proposes these amendments after feedback and internal review.

Items 1 through 4 update the agency's procedures regarding waiver of rules and petitions for rule making to reflect recent legislative changes enacted in 2020 Iowa Acts, House File 2389.

Items 5 through 7 update general rules on hearings and service of process. The proposed amendment in Item 5 changes the method of service on notices of hearing from mail to electronic filing as is the current practice of the agency since 2015. The proposed amendment in Item 6 clarifies the default order of procedure in Iowa Code chapter 8A grievance appeals and disciplinary action appeals, as well as Iowa Code section 70A.28 whistleblower actions. Finally, the amendments to Chapter 2 add persons to the list of those who are appropriate to receive service.

Items 8 through 12, 14 through 21, 26, and 28 through 30 relate to general procedures in bargaining unit and representation cases and retention and recertification election cases. These proposed amendments seek to clarify the employer's posting and distribution responsibilities in bargaining unit determination cases, representation certification cases, and elections. The current rules require employers to post and distribute, if customary, certain notices and other information during bargaining unit and representation cases and proceedings. The proposed amendments clarify that employers shall distribute this information to employees and shall also post this information. The proposed amendments

## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

also clarify that when an employer supplies the agency with a voter list for elections, the employer is only required to provide an eligible voter's telephone number if the employer knows that person's telephone number. These amendments are proposed due to questions that arose during previous election cycles as well as to provide consistency in the applicability of the agency's rules.

Item 13 proposes an increase in the election fee assessed to certified employee organizations for certification and decertification elections. The fee would increase from \$1.50 per eligible voter with a \$15 minimum to \$1.90 per eligible voter with a \$20 minimum.

Items 22 through 24 relate to the proper service method of mediation requests, arbitration requests, and last offers during impasse. Currently, parties may serve mediation requests, arbitration requests, and last offers on the opposing party only by mail. These amendments propose to allow both email and mail as appropriate methods of service.

Item 25 proposes an increase in the election fee assessed to certified employee organizations for retention and recertification elections in a manner similar to the certification and decertification elections. The fee would increase from \$1.50 per eligible voter with a \$15 minimum to \$1.90 per eligible voter with a \$20 minimum. This fee increase is necessary due to the decreasing number of eligible voters and the need to meet the fee charged by the election services vendor.

Item 25 also adds a time frame in which a certified employee organization can file a notice of nonpayment of the recertification election fee. This amendment provides that such notice may not be filed before the employer supplies the agency with the voter list for the election as the fee is not due until the agency has received such list.

Item 27 clarifies that when a certified employee organization files a successful pre-election challenge to a voter's eligibility to vote, the agency can order a new election as a remedy, but the agency also has other appropriate remedies available.

#### *Fiscal Impact*

Although the implementation of Iowa Code section 20.6(7) and the subsequent increase in the fee in these rules will cause an increase in the expenditure of funds by the agency and affected persons, due to the requirement that these costs be paid by the employee organizations involved, the agency does not anticipate these expenditures will exceed \$100,000 per year or \$500,000 within five years.

#### *Jobs Impact*

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

#### *Waivers*

These rules do not provide for a waiver of their terms, but are instead subject to the agency's general waiver provisions found at rule 621—1.9(17A,20).

#### *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 agency no later than 4:30 p.m. on April 14, 2021. Comments should be directed to:

Amber DeSmet  
Public Employment Relations Board  
Jessie Parker Building, Suite 1B  
510 East 12th Street  
Des Moines, Iowa 50319  
Email: [amber.desmet@iowa.gov](mailto:amber.desmet@iowa.gov)

## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

*Public Hearing*

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

April 14, 2021  
10 a.m.

Via video conference

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

Any persons who intend to attend the public hearing should contact the agency at [iaperb@iowa.gov](mailto:iaperb@iowa.gov). The agency will then supply the link to attend the video conference.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 1.5(5) as follows:

**1.5(5)** The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by or interested in the proposed action which is the subject of the petition. Within 60 days after the filing of a petition, the board shall either deny the petition, stating its reasons for the denial, or initiate rule-making proceedings in accordance with Iowa Code chapter 17A. The board shall submit the petition and the disposition of the petition to the administrative rules review committee.

ITEM 2. Amend rule 621—1.9(17A,20), catchwords, as follows:

**621—1.9(17A,20) Waiver ~~or variance~~ of rules.**

ITEM 3. Amend paragraph **1.9(1)“a”** as follows:

*a.* ~~“Waiver or variance” as used in this rule means action by the board which suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified individual or entity on the basis of the particular circumstances of that individual or entity. The term “waiver” as used herein shall include both a waiver and a variance.~~

ITEM 4. Amend subrule 1.9(23) as follows:

**1.9(23) Summary reports.** All orders granting or denying a waiver pursuant to this rule shall be ~~summarized in semiannual reports which comply with and are distributed pursuant to the requirements of Iowa Code section 17A.9A~~ submitted pursuant to Iowa Code section 17A.9A.

ITEM 5. Amend rule 621—2.2(20) as follows:

**621—2.2(20) Notice of hearing—contents.** Written notice of a contested case hearing shall be ~~delivered~~ filed by the board to all parties by ordinary mail agency. The notice shall include:

- 2.2(1)** A statement of the date, time, place and nature of the hearing.
- 2.2(2)** A statement of the legal authority and jurisdiction under which the hearing is to be held.
- 2.2(3)** A reference to the particular sections of the statutes and rules involved.
- 2.2(4)** A short and plain statement of the matters asserted.

ITEM 6. Amend rule 621—2.8(20) as follows:

**621—2.8(20) Order of procedure.**

**2.8(1) Order of procedure.** The following is the order of procedure for hearings before the agency:

- a.* The employer shall present its evidence first in unit determination hearings.

## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

b. The complainant shall present its evidence first and shall have the burden of proof in prohibited practice hearings.

c. The appellant shall present the appellant's evidence first and have the burden of proof in grievance appeals filed pursuant to Iowa Code section 8A.415(1).

d. The appellee shall present its evidence first and have the burden of proof in disciplinary action appeals filed pursuant to Iowa Code section 8A.415(2).

e. The petitioner shall present its evidence first and have the burden of proof in state employee whistleblower actions filed pursuant to Iowa Code section 70A.28.

f. The board or administrative law judge may, in its discretion, alter the order of procedure.

**2.8(2)** Order of procedure for intervenors. Intervenors shall follow the parties in whose behalf the intervention is made; if not made in support of a principal party, the administrative law judge shall designate at what stage such intervenors shall be heard.

**2.8(3)** Order of other parties and general procedures. The order of other parties shall be determined by the administrative law judge. All parties shall be allowed cross-examination and an opportunity for rebuttal. At any stage of the hearing or after the close of the hearing but prior to decision, the board or administrative law judge may call for further evidence to be presented by the party or parties concerned.

ITEM 7. Amend subrule 2.15(1) as follows:

**2.15(1)** Service—upon whom made. Whenever under these rules nonelectronic service is required or permitted to be made upon a person or party, such service shall be as follows:

a. Upon any city, or board, commission, council or agency thereof, by serving the mayor, ~~or~~ city clerk, city administrator, or city personnel officer.

b. Upon any county, or office, board, commission or agency thereof, by serving the county auditor, ~~or~~ the chairperson of the county board of supervisors, or the county personnel director.

c. Upon any school district, ~~school township,~~ or school corporation, by serving the presiding officer ~~or,~~ the secretary of its governing body, the superintendent, the school business official, or the human resources director.

d. Upon the state of Iowa, or board, commission, council, office or agency thereof, by serving the governor or the director of the department of administrative services.

e. Upon the state judicial department, by serving the state court administrator.

f. Upon any other governing body, by serving its presiding officer, clerk, ~~or~~ secretary, or personnel director.

g. Upon an employee organization, by serving the person designated by the employee organization to receive service pursuant to 621—subrule 8.4(2) or by service upon the president or secretary of the employee organization.

h. Upon any other person, by serving that person or that person's attorney of record.

ITEM 8. Amend rule 621—4.2(20) as follows:

**621—4.2(20) Unit determination.**

**4.2(1)** Content of petition. A petition for bargaining unit determination shall be on an agency-prescribed form and filed with the agency. The petition shall identify and describe the proposed unit and indicate the unit's status as a public safety or non-public safety unit.

**4.2(2)** Notice to parties. Upon the filing of a proper petition, the agency shall serve copies thereof upon other interested parties by certified mail, return receipt requested. The agency shall file a notice to employees, giving notice that the petition has been filed and setting forth the rights of employees under Iowa Code chapter 20. ~~The employer shall promptly post the petition and notice to employees in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute the petition and notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, the petition and notice to the affected employees. The employer shall also promptly post the petition and notice in the manner and locations customarily used for the posting of information to employees.

## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

**4.2(3) Notice of hearing.** The board or administrative law judge shall file a notice of hearing setting forth the time, date and place of the hearing and any other relevant information. ~~The public employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by email or hard copy, the employer shall also promptly distribute the notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

**4.2(4) Intervention.** See rule 621—2.4(20).

**4.2(5) Professional/nonprofessional unit elections.** Should the agency determine, in any case, that professional and nonprofessional employees are appropriately included in the same bargaining unit, the agency shall file an order directing that an election be conducted to determine whether the professional and nonprofessional employees wish to be represented in a single bargaining unit. The election shall be conducted in accordance with rule ~~621—5.8(20)~~ 621—5.7(20).

**4.2(6) Informal settlement of bargaining unit determination.** Cases on bargaining unit determination may be informally settled in the following manner:

*a.* The parties may stipulate to the composition of the unit.

(1) The petitioning party shall prepare a stipulation setting forth in detail the composition of the bargaining unit as agreed upon by all parties. The stipulation shall be signed by the authorized representatives of the parties involved and shall be filed with the agency for informal review and tentative approval. In the event the parties agree to a combined unit of professional and nonprofessional employees, the stipulation shall set forth both those job classifications included within the professional category and those job classifications included within the nonprofessional category.

(2) If the agency fails to tentatively approve the stipulation, the agency shall notify the parties and, unless the parties amend the stipulation in a manner to gain tentative approval of the agency, the matter shall proceed to hearing.

(3) If the agency tentatively approves the stipulation, the agency shall file a public notice of proposed decision. ~~The public employer shall promptly post copies of the notice of the proposed decision, for a period of not less than one calendar week, in a prominent place in the main office of the public employer accessible to the general public and in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by email or hard copy, the employer shall also promptly distribute such notice to employees by those means. The public employer shall also have copies of the notice available for distribution to the public upon request.~~ The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

*b.* Notice of the proposed decision shall identify the parties; specify the terms of the proposed decision; list the names, addresses, telephone numbers, and email addresses of the parties or their authorized representatives to whom inquiries by the public should be directed; and, further, state the date and method by which written objection to the proposed decision must be filed with the agency.

*c.* Objections to the proposed decision must be electronically filed with the agency by the date posted in the notice of proposed decision. Objections shall set out the specific grounds of objection. The objecting party must identify itself and provide a mailing address, telephone number, and email address, if available. The agency shall promptly advise the parties of the objections and make any investigation deemed appropriate. If the agency deems the objections to be of substance, the parties may, with agency approval, amend their proposed decision to conform therewith, and the objecting party shall be notified by the agency of the amendment. If the objections cannot be informally resolved, they may be dismissed or resolved at hearing.

*d.* Final board decision on the informal settlement shall be reserved until expiration of the time for filing of objections. If no objections have been filed; or if filed objections have been resolved through amendment of the proposed decision; or if filed objections, after inquiry by the board, were found to be frivolous, the board shall endorse the proposed decision as final.

## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

*e.* If interested parties are unable to informally settle a case on bargaining unit determination within 15 days of service of a petition, the board or administrative law judge may order any interested party to file its proposed unit description.

ITEM 9. Amend subrule 4.3(4) as follows:

**4.3(4) Notice.** Upon the filing of a petition for certification, decertification or representation, the agency shall file a notice to employees, giving notice that an election petition has been filed and setting forth the rights of employees under Iowa Code chapter 20. ~~The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by email or hard copy, the employer shall also promptly distribute the notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

ITEM 10. Amend subrule 4.8(5), introductory paragraph, as follows:

**4.8(5) Public employer posting, decisions and objection period.** When a petition for amendment of certification is filed which the agency deems sufficient to fulfill the requirements of this rule, the agency shall file a public notice of its proposed decision to amend the employee organization's certification upon the non-petitioning interested parties. Upon receipt, the public employer shall promptly post the notice of proposed decision, for a period of not less than one calendar week, in a prominent place in the main office of the public employer accessible to the general public ~~and in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by email or hard copy, the employer shall also promptly distribute such notice to employees by those means. The public employer shall also have copies of the proposed decision available for distribution to the public upon request.~~ The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

ITEM 11. Amend subrule 4.9(3) as follows:

**4.9(3) Notice.** Upon the filing of a petition, the agency shall file a notice to employees, giving notice that a petition for the merger of two units has been filed and setting forth the rights of employees under Iowa Code chapter 20. ~~The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by email or hard copy, the employer shall also promptly distribute the notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

ITEM 12. Amend subrule 4.10(3) as follows:

**4.10(3) Notice.** The agency shall file a notice to employees, giving notice that a petition to merge two units and amend the certification of the successive employee organization has been filed and setting forth the rights of employees under Iowa Code chapter 20. ~~The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by email or hard copy, the employer shall also promptly distribute the notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

ITEM 13. Amend paragraph 5.1(2)“d” as follows:

*d.* For certification and decertification elections, the applicable election fee is based upon the list provided pursuant to 621—subrule 4.3(3) to verify the showing of interest.

## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

(1) When the list contains ten or fewer eligible voters, the election fee is ~~\$15~~ \$20. When the list contains more than ten eligible voters, the election fee is ~~\$1.50~~ \$1.90 per eligible voter. When the number of eligible voters on the list for determining fees increases or decreases as contemplated by subparagraph 5.2(2)“b”(2) or due to successful challenges pursuant to subrule 5.2(3) and the increases or decreases alter the number of eligible voters by ten or more, the employee organization shall make an additional payment to reflect the increased number of eligible voters or, in the case of a decrease, the agency shall reimburse the employee organization for its overpayment.

(2) The agency will not refund the election fee in the event the election fee is paid and the agency has performed duties to conduct the election but the election does not occur.

ITEM 14. Amend subrule 5.2(2) as follows:

**5.2(2)** *Certification, decertification, professional/nonprofessional, and amendment of unit elections—eligible voter list.*

*a.* List for determining fees. The agency will determine the election fee based on the initial employer-provided list of employees used to verify the showing of interest pursuant to 621—subrule 4.3(3).

*b.* Voter eligibility list.

(1) When the agency files an order that an election be conducted, the employer shall, within seven days of the notice or order, email to the agency an alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee’s date of birth, the last four digits of the employee’s social security number and any other information required by the agency.

(2) The agency shall file the list of eligible voters’ names and job classifications. This list shall become the official voting list for the election to be conducted. The agency shall provide to the employee organization the voter list containing the employees’ contact information. The employer or employee organization shall email proposed additions or deletions of employees’ names, changes in job classifications, addresses, contact information, or other eligible voter changes to the agency and to the other party. The parties may further amend the list by agreement.

ITEM 15. Amend rule 621—5.3(20) as follows:

**621—5.3(20) Methods of voting—general procedures.** The agency may conduct an election, in whole or in part, in person, by mail ballot, or through a telephonic/web-based system.

**5.3(1) In-person election.** An eligible voter shall cast the voter’s ballot by marking the voter’s choice on the ballot and depositing it in the ballot box or inserting it in a voting machine, whichever is applicable. If a voter inadvertently spoils a ballot, the ballot may be returned to the agent who shall void and retain it and provide another ballot to the voter. Eligible voters may be asked to cast their votes via a nondocument ballot when there is a voting machine present that accommodates this technology.

*a. Absentee ballot.* An absentee ballot shall be delivered to an eligible voter upon the voter’s written notice to the agency of the voter’s inability to be present at the election. The marked absentee ballot shall be in the possession of the election agent prior to the close of the in-person election in order to be counted. The marked absentee ballot shall be contained in the secret envelope provided to the voter, and the postage-paid, return-addressed outer envelope provided for the return of the ballot to the agency shall be signed by the voter in order for the ballot to be counted.

*b. Observers.* Each party to an election may designate an equal number of representatives to act as the party’s observers during the election and tally of ballots. Unless agreed to by the parties, observers shall not be supervisory employees of the public employer.

*c. Ballot box.* Upon examination by the observers and prior to the opening of the polls, the election agent shall seal the ballot box so that entry thereto is limited to one slot. In the event that the election is continued for more than one polling period or at more than one polling place, the ballot box shall be sealed in its entirety and shall remain in the custody of the election agent until immediately prior to the next polling period or the counting of the ballots.



## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

*d. Voting machines.* The agency may utilize voting machines to assist with the casting or tabulation of votes.

*e. Tally.* The agency shall tally the ballots by manual count or electronic count and file the tally after the close of the election. Void ballots are those which do not indicate a preference or the clear intent of the voter or which appear to identify the voter. ~~The employer shall promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, copies of the tally of ballots to the affected employees. The employer shall also promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees.

**5.3(2) Mail-ballot election.** When conducting a mail-ballot election, the agency shall send an official voting package to each eligible voter by ordinary mail and direct a date by which voted ballots must be received by the agency in order to be counted.

*a. Contents of official voting packages.* Voting packages sent to eligible voters shall consist of voting instructions, a ballot, a secret envelope in which the marked ballot is to be inserted, and a postage-paid, return-addressed outer envelope which identifies the voter for purposes of proposing challenges to the voter's eligibility. In the event of a challenge, both envelopes shall remain sealed until such time as the challenge is resolved.

*b. Tally of ballots—observers.* The agency shall set a time and place for the tally of ballots, at which time observers designated by the parties to the election shall be entitled to be present. The voter's outer envelope shall be opened, and the secret envelope containing the voter's ballot shall be commingled with the other secret envelopes. The agency shall tally the ballots and file the tally after the close of the election. Void ballots are those which do not indicate a preference or the clear intent of the voter, which appear to identify the voter, which are not enclosed in the secret envelope provided to the voter, or which are returned in an outer envelope which does not bear the voter's signature. ~~The employer shall promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, copies of the tally of ballots to the affected employees. The employer shall also promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees.

**5.3(3) Telephonic/web-based election.** The agency may utilize an election services vendor for the receipt of telephonic and web-based ballots and for the tabulation of those ballots.

*a. Notice of election.* When conducting a telephonic/web-based election, whether in whole or in part, the agency shall include in the notice of election the telephone number the voter is to call to cast a ballot, the website address for web-based voting and a sample ballot or script.

*b. Tally.* Following the close of the election period and the agency's receipt of the ballot tabulation from the election services vendor, the agency shall tally the ballots and file the tally. Void or blank ballots are those which do not indicate a preference or clear choice by the voter in favor of one of the voting options presented by the ballot. ~~The employer shall promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, copies of the tally of ballots to the affected employees. The employer shall also promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees.

*c. Inoperable voting system.* The board may extend the period of the election due to inoperable voting systems.

## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

**5.3(4) *Alternate voting method.*** When a voter promptly informs the agency of the voter's inability to cast a ballot using the designated methods of voting, the agency shall assist the voter in using an alternate method to cast a secret ballot.

ITEM 16. Amend subrule 5.5(3) as follows:

**5.5(3) *Notice of election.*** Following the employer's submission of the list of eligible voters, the employee organization's payment of the applicable election fee and the expiration of the time for intervention as provided in subrule 5.5(4), the agency shall file a notice of election containing a sample ballot or script and setting forth the date, time, place, method, and purpose of the election and such additional information as the agency may deem appropriate. ~~The employer shall promptly post copies of the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~ The employer shall distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

ITEM 17. Amend subrule 5.6(3) as follows:

**5.6(3) *Notice of election.*** Following the employer's submission of the list of eligible voters and the employee organization's payment of the applicable election fee, the agency shall file a notice of election containing a sample ballot or script and setting forth the date, time, place, method, and purpose of the election, and such additional information as the agency may deem appropriate. ~~The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

ITEM 18. Amend subrule 5.7(2) as follows:

**5.7(2) *Voter eligibility list.***

*a.* The public employer shall email the lists of employees in the professional and nonprofessional categories to the agency within seven days of the agency's order. The lists shall be organized alphabetically and contain the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote; and any other information required by the agency. The agency shall file the lists of eligible voters' names and job classifications. These lists shall become the official voting lists for the election to be conducted. The agency shall provide to the employee organization the voter lists with the employees' contact information.

*b.* The employer or employee organization shall email proposed additions or deletions of employees' names, changes in job classifications, addresses, contact information, or other eligible voter changes to the agency and other party. The parties may amend the lists by agreement.

ITEM 19. Amend subrule 5.7(3) as follows:

**5.7(3) *Notice of election.*** Following the employer's submission of the lists of eligible voters, the agency shall file a notice of election containing a sample ballot or script for each category of employee and setting forth the date, time, place, method, and purpose of the election, and such additional information as the agency may deem appropriate. ~~The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

ITEM 20. Amend subrule 5.8(2) as follows:

**5.8(2) Voter eligibility list.** The public employer shall email the list of employees to the agency within seven days of the agency's order. The list shall be organized alphabetically and contain the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote; and any other information required by the agency. The agency shall file the list of eligible voters' names and job classifications, which shall become the official voting list for the election to be conducted. The employer or employee organization shall email proposed additions or deletions of employees' names, changes in job classifications, addresses, contact information or other eligible voter changes to the agency and other party. The parties may further amend the list by agreement.

ITEM 21. Amend subrule 5.8(3) as follows:

**5.8(3) Notice of election.** Following the employer's submission of the list of eligible voters, the agency shall file a notice of election containing a sample ballot or script and setting forth the date, time, place, method, and purpose of the election, and such additional information as the board may deem appropriate. ~~The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also post the notice in the manner and locations customarily used for the posting of information to employees.

ITEM 22. Amend subrule 7.3(2) as follows:

**7.3(2) Date, signature and notice.** The request for mediation shall be dated and signed by an authorized representative of the requesting party. The requesting party shall also serve mail or email a copy of the request ~~upon~~ to the other parties to the negotiations ~~either by personal delivery or by ordinary mail.~~

ITEM 23. Amend subrule 7.5(3) as follows:

**7.5(3) Service of request.** The requesting party shall serve mail or email a copy of the request for arbitration ~~upon~~ to the opposing party ~~by ordinary mail.~~

ITEM 24. Amend subrule 7.5(4) as follows:

**7.5(4) Exchange of final offers.** Within four days of the board's receipt of the request for arbitration, each party shall serve mail or email its final offer on each of the impasse items to the other party to the impasse. Final offers shall not be amended. A party shall not submit a final offer for arbitration which has not been offered to the other party in the course of negotiations.

ITEM 25. Amend subrule 15.1(1) as follows:

**15.1(1) Election fees.**

a. The employee organization is responsible for and shall prepay the election fees in accordance with this chapter.

b. A certified employee organization may file a written request with the agency for an extension of time in which to pay its election fees. A certified employee organization may file a request after the agency's filing of its intent to conduct an election, but shall file the request no later than the date the election fee is due as provided in the notice of intent to conduct an election. In no event will the agency conduct an election prior to an employee organization's payment of election fees.

c. A certified employee organization may file notice of nonpayment to indicate that it will not pay the election fees. ~~The~~ If the certified employee organization chooses to file a notice of nonpayment, that notice of nonpayment may shall be filed at any time, but must be filed no later than 30 days prior to the commencement of the election period after the employer has submitted the voter list pursuant to paragraph 15.2(2) "a," but no later than the date the election fee is due. The notice shall be signed by an authorized representative of the organization, state that the organization will not pay the election fees, and acknowledge that the agency will not conduct the applicable election and the employee organization's certification will be revoked.

## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

d. The applicable election fee is based upon the number of employees on the voter eligibility list submitted to the agency pursuant to subrule 15.2(2).

(1) When the list contains ten or fewer eligible voters, the election fee is ~~\$15~~ \$20. When the list contains more than ten eligible voters, the election fee is ~~\$1.50~~ \$1.90 per eligible voter. When the number of eligible voters on the list for determining fees increases or decreases as contemplated by paragraph 15.2(2) "b" or due to successful challenges pursuant to subrule 15.2(3) and the increases or decreases alter the number of eligible voters by ten or more, the employee organization shall make an additional payment to reflect the increased number of eligible voters or, in the case of a decrease, the agency shall reimburse the employee organization for its overpayment.

(2) The agency will not refund the election fee in the event the election fee is paid and the agency has performed duties to conduct the election but the election does not occur.

ITEM 26. Amend subrule 15.2(2) as follows:

**15.2(2) Initial eligible voter list.**

a. *List for determining fees.*

(1) The agency will determine the election fee based on the following initial employer-provided list of employees. When the agency files a notice of intent to conduct a retention and recertification election, the employer shall, within seven days of the notice, email to the agency an alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees in the bargaining unit. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. The employer shall separately email the certified employee organization to confirm that the employer provided the agency with the voter list and will provide the date the list was emailed to the agency and the number of employees on the list.

(2) The agency shall file the list of eligible voters' names and job classifications. The agency shall provide to the employee organization the voter list containing the employees' contact information.

b. *Final voter eligibility list.*

(1) When the agency files an order that the retention and recertification election be conducted, the employer shall, within seven days of the order, email to the agency a second alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote. If the original list the employer provided for determining fees is unchanged, the employer does not need to email this second list. The original list, if unchanged, or this second list will become the final list. The agency shall file the list of eligible voters' names and job classifications. This list shall become the official eligible voter list for the election to be conducted. The agency shall provide to the employee organization the voter list containing the employees' contact information.

(2) The employer shall not add to or delete from the list any employee name after the submission of the above-described voter eligibility list. By contacting the employer, the certified employee organization may propose additions to or deletions from the list of employees' names prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections. The parties may amend the list by agreement prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections.

ITEM 27. Amend subrule 15.2(3) as follows:

**15.2(3) Voter eligibility challenges.**

a. *General.* A party may challenge, for good cause, the eligibility of any voter. The agency shall attempt to resolve the challenge. Whenever challenged ballots are unresolved and determinative of the outcome of an election, a hearing to determine the eligibility of the challenged voter(s) shall be scheduled and conducted. After the conclusion of the hearing, the board may, if necessary, order a new election, determine the appropriate remedy, which may include ordering a new election, and the cost of the new election may be taxed to the nonprevailing party.

## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

*b. Methods and timing of voter eligibility challenges.* A party may challenge the eligibility of a voter by electronically filing a completed voter eligibility form in the BU case file and in accordance with the following:

(1) In-person elections. A party shall challenge a voter's eligibility prior to the time the voter deposits the voter's ballot in the ballot box. In the event of a challenge, the challenged voter may mark the ballot in secret, and the election agent shall segregate the ballot by causing it to be placed in a challenged-ballot envelope with appropriate markings and depositing it in the ballot box.

(2) Mail-ballot elections. A party shall challenge a voter's eligibility prior to the time the outer envelope containing the voter's secret envelope and ballot is opened. In the event of a challenge, both the secret envelope and the outer envelope shall remain sealed until the challenge is resolved.

(3) Telephonic/web-based elections. A party shall challenge a voter's eligibility at least seven days prior to the commencement of the election period for telephonic/web-based elections.

ITEM 28. Amend subrule 15.5(2) as follows:

**15.5(2) General procedure.**

*a.* Upon determining that a retention and recertification election is required, the agency shall file a notice of intent to conduct an election which shall contain the dates of the election period; the place, method, and purpose of the election; the date the voter list for determining fees is due; and the date upon which the employee organization shall pay the applicable election fee. The agency shall order the public employer's submission of the voter eligibility list in accordance with rule 621—15.2(20) and subrule 15.5(4).

*b.* Following the public employer's submission of the list of eligible voters as provided in subrule 15.5(4) and the agency's receipt of the applicable election fee from the certified employee organization, the agency will file an order directing a retention and recertification election and a notice of election, ~~copies of which shall be promptly posted by the employer in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~ The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees. Such notices shall contain a sample ballot or script and shall set forth the dates of the election period; the time, place, method, and purpose of the election; and such additional information as the agency may deem appropriate.

ITEM 29. Amend subrule 15.5(4) as follows:

**15.5(4) Eligible voter list for determining election fee.**

*a.* The public employer shall email to the agency a list of the employees in the bargaining unit in question within seven days of the filing of the notice of intent to conduct an election. This list shall be organized alphabetically and contain the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees in the bargaining unit. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. The employer shall separately email the certified employee organization to confirm that the employer provided the agency with the voter list and will provide the date the list was emailed to the agency and the number of employees on the list. The agency shall file the list of eligible voters' names and job classifications. The agency shall provide to the certified employee organization the list with the employees' contact information. The certified employee organization shall use this list to determine the election fee as provided in subrule 15.5(5).

*b.* If the public employer fails to submit the list of eligible voters to the agency by the deadline set in the notice, the agency will not conduct the election and will file an order recertifying the employee organization.

ITEM 30. Amend subrule 15.5(6) as follows:

**15.5(6) Final voter eligibility list.**

## PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

*a.* When the agency files an order directing that the retention and recertification election be conducted, the employer shall, within seven days of the order, email to the agency a second alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote. If the list the employer previously provided pursuant to subrule 15.5(4) is unchanged, the employer does not need to email a subsequent list. The agency shall file the list of eligible voters' names and job classifications. This list shall become the official eligible voting list for the election to be conducted. The agency shall provide to the certified employee organization the voter list containing the employees' contact information.

*b.* The employer shall not add to or delete from the list any employee name after the submission of the above-described voter eligibility list. By contacting the employer, the certified employee organization may propose additions to or deletions from the list of employees' names prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections. The parties may amend the list by agreement prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections.

ARC 5520C

**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rule making related to radiation, X-ray equipment, and continuing education and providing an opportunity for public comment**

The Public Health Department hereby proposes to amend Chapter 41, "Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials," and Chapter 42, "Permit to Operate Ionizing Radiation Producing Machines or Administer Radioactive Materials," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 136C.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 136C.

*Purpose and Summary*

The proposed amendments provide clarity and updates regarding issues that have evolved over the years that these rules have been in place. The proposed amendments are largely already in practical use in the industry, and the proposed amendments will clarify within the rules the activities that are actually occurring or need to be changed to support a need in the industry as a result of the addition of training/testing options from the Department, changes in applied uses for dual X-ray energy absorptiometry (DEXA) machines, and advancements in equipment and the scientific understanding of radiation protection for imaging the abdominal and pelvic area.

Specifically, the proposed amendments will do the following:

1. Radiation machines. In numbered paragraph 41.1(3)"a"(3)"5" and subparagraph 41.1(3)"a"(6), the amendments remove a specific reference to the type and place of gonadal shielding to be used and replace it with more general radiation protection and shielding requirements based on diagnostic and clinical needs. This change is being made to align with national consensus that demonstrates a need to change how gonadal shielding is applied due to new understanding of dose weighting factors for tissue and organs, as well as advances in radiation-emitting equipment and detector technologies.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

2. Radiation machines. Paragraph 41.1(5)“n” indicates that the use of fluoroscopy by radiologist assistants shall be defined in rule 641—42.6(136C). This is an incorrect reference to Chapter 42. The addition of “radiologist assistant” to the list authorized to supervise fluoroscopy will define this use and align with clinical practice.

3. Permit. In rules 641—42.2(136C) and 641—42.10(136C), the amendments change the name of the X-ray equipment operator permit from bone densitometry to DEXA. Bone densitometry has always been performed using DEXA machines, but recent developments in clinical practice and technology have allowed these machines to expand in use to other body measurements beyond just bone density. These amendments are necessary to more accurately describe the activities performed using the DEXA equipment, which includes both bone densitometry measurements and body composition. To support this change, a definition was added for “body composition” and terminology was changed as appropriate throughout the chapter.

4. Permit. Disciplinary action added for examination subversion. This amendment is needed now that courses and examinations are offered directly by the Department, effective August 2019. Referenced national board standards from the American Registry of Radiologic Technologists (ARRT) certification board are to remain consistent with this definition and assessment of subversion.

5. Permit. Rule 641—42.26(136C), regarding Iowa approval for continuing education (CE), is proposed to be rescinded since the Department no longer does those approvals. The rules were changed in March 2013 to remove this practice of Iowa approval of CEs, and the rule language allowed for transition at that time. All CE providers have transitioned to the non-Iowa approval processes, so this coverage language is no longer needed.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 13, 2021. Comments should be directed to:

Angela Leek  
Department of Public Health  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Email: [radhealthia@idph.iowa.gov](mailto:radhealthia@idph.iowa.gov)

*Public Hearing*

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **41.1(3)“a”(3)** as follows:

(3) A chart shall be provided in the vicinity of the diagnostic X-ray system's control panel which specifies, for all examinations performed with that system, the appropriate technique and guidance for employing available dose reduction methods and technologies across all patient sizes and clinical indications. The following information shall be included:

1. Patient's body part and anatomical size, or body part thickness, or age (for pediatrics), versus technique factors to be utilized unless automatically set by the X-ray system;
2. Type and size of the film or film-screen combination to be used;
3. Type and focal distance of the grid to be used, if any;
4. Source to image receptor distance to be used, except for dental intraoral radiography; and
5. ~~Type and location of placement of human patient shielding to be used (e.g., gonad).~~

ITEM 2. Amend subparagraph **41.1(3)“a”(6)** as follows:

(6) ~~Gonad shielding of not less than 0.50 millimeter lead equivalent shall be used for human patients, who have not passed the reproductive age, during radiographic procedures in which the gonads are in the useful beam, except for cases in which this would interfere with the diagnostic procedure. A sufficient number of protective apparel (e.g., aprons, gloves, collars) and shields shall be available to provide the necessary radiation protection for all patients and personnel who are involved with X-ray operations.~~

ITEM 3. Amend paragraph **41.1(5)“n”** as follows:

*n.* Supervision of fluoroscopy. The use of fluoroscopy by radiologic technologists and radiologic students shall be performed under the direct supervision of a licensed practitioner, a radiologist assistant or an advanced registered nurse practitioner (ARNP), pursuant to 655—subrule 7.2(2), for the purpose of localization to obtain images for diagnostic or therapeutic purposes. ~~The use of fluoroscopy by radiologist assistants shall be as defined in 641—42.6(136C).~~

ITEM 4. Adopt the following **new** definition of “Body composition scan” in rule **641—42.2(136C)**:

“*Body composition scan*” means the use of a low dose X-ray to generate images of a color-coded body map.

ITEM 5. Amend rule 641—42.10(136C), introductory paragraph, as follows:

**641—42.10(136C) Permit to practice as an X-ray equipment operator in either podiatric radiography or bone densitometry (dual energy X-ray absorptiometry).** After January 1, 2015, all individuals performing only bone densitometry or other examinations using DEXA machines must hold a bone densitometry permit.

ITEM 6. Amend paragraph **42.10(1)“e”** as follows:

*e.* Submit proof of at least a 70 percent score on a department-approved examination.

~~(1) All podiatric X-ray equipment operators must pass the examination with a 70 percent score. After January 1, 2015, all bone densitometry equipment operators must submit proof of at least a 70 percent score on a department-approved examination.~~

~~(2) (1)~~ Three failed attempts on the examination in 42.10(1)“*e*”(1) 42.10(1)“*e*” will require the individual to repeat the formal education or complete a department-approved review program.



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~(3)~~ (2) Each individual making application to take an examination as an X-ray equipment operator to meet the requirements of ~~42.10“e”(1)~~ 42.10(1) “e” must submit an application and nonrefundable fee of \$100 to the department each time the individual takes the examination.

ITEM 7. Adopt the following **new** subrule 42.13(5):

**42.13(5)** An individual reinstating an expired permit shall submit the following:

a. Application to reinstate and a nonrefundable \$150 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of subrule 42.7(1).

b. Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 24.0 hours of continuing education obtained within the previous 24 months must be submitted. If the permit includes the radiologist assistant classification, then the individual must submit a total of 50.0 hours of continuing education obtained within the biennium indicated on the individual’s permit.

c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

ITEM 8. Amend rule 641—42.22(136C), catchwords, as follows:

**641—42.22(136C) Rules of conduct, self-reporting requirements, and enforcement actions for all permit holders or applicants.**

ITEM 9. Amend paragraph **42.22(1)“n”** as follows:

n. Employing fraud or deceit to obtain, attempt to obtain or renew a permit under this chapter or in connection with a certification or license issued from a certifying or licensing entity. This includes altering documents, failing to provide complete and accurate responses or information, ~~or~~ indicating falsely in writing that a permit is valid when that is not the case, or any form of examination subversion.

ITEM 10. Adopt the following **new** paragraph **42.22(2)“c”**:

c. Report potential ethics violations (including state licensing issues and criminal charges and convictions) within 30 days of the occurrence or during the permit holder’s annual renewal process, whichever comes first.

ITEM 11. Rescind **641—Chapter 42, division heading** preceding rule 641—42.26(136).

ITEM 12. Rescind and reserve rule **641—42.26(136C)**.

ITEM 13. Amend subparagraph **42.31(2)“e”(1)** as follows:

(1) All competency testing for limited radiography shall be directly supervised by the principal or clinical instructor, can only begin after the classroom hours in a category have been completed, and cannot begin until after the clinical site has been approved by the department using the Initial Clinical Site Form.

**ARC 5519C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rule making related to definition of “dust-lead hazard” and providing an opportunity for public comment**

The Public Health Department hereby proposes to amend Chapter 69, “Renovation, Remodeling, and Repainting—Lead Hazard Notification Process,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 135.105C.

*Purpose and Summary*

The proposed amendment in Chapter 69 is a minor update to the definition of “dust-lead hazard.” The dust-lead hazard levels changed in 2020, and this amendment is required to reflect the current definition of dust-lead hazard levels.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 13, 2021. Comments should be directed to:

Kane Young  
Department of Public Health  
321 East 12th Street  
Des Moines, Iowa 50319  
Email: [kane.young@idph.iowa.gov](mailto:kane.young@idph.iowa.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend rule **641—69.2(135)**, definition of “Dust-lead hazard,” as follows:

“*Dust-lead hazard*” means surface dust in residential dwellings or child-occupied facilities that contains a mass-per-area concentration of lead equal to or exceeding 40 10 micrograms per square foot on floors, ~~250~~ 100 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present in a residential dwelling

PUBLIC HEALTH DEPARTMENT[641](cont'd)

or child-occupied facility when the weighted arithmetic mean lead loading for all single-surface or composite samples of floors and interior windowsills is equal to or greater than ~~40~~ 10 micrograms per square foot on floors, ~~250~~ 100 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled residential dwelling in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled residential unit on the property. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled common area in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled common area in the same common area group on the property.

**ARC 5522C**

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Notice of Intended Action**

#### **Proposing rule making related to standards for electrical work and providing an opportunity for public comment**

The Electrical Examining Board hereby proposes to amend Chapter 504, “Standards for Electrical Work,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 103.6.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 17A.3 and 103.6.

#### *Purpose and Summary*

The purpose of this proposed rule making is to update the Standards for Electrical Work to the National Electrical Code, 2020 edition. Consistent with recent rule making in this chapter, the entire National Electrical Code (NEC) is adopted, with the time-limited amendments included in this chapter. It is the intention of the Department and the Board not to make further amendments, regardless of new additions to the NEC, until it is necessary for the state of Iowa. A significant effect of the adoption of the 2020 edition of the NEC would have been the requirement for 250-volt receptacles, but the Board, in addition to adopting the 2020 edition of the NEC by reference, is amending the 2020 edition to postpone that requirement until January 1, 2022.

Two typographical errors in the amendments are corrected as well, and language is added to better describe the receptacles that would require ground-fault circuit-interrupter (GFCI) protection.

#### *Fiscal Impact*

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

#### *Jobs Impact*

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

#### *Waivers*

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

PUBLIC SAFETY DEPARTMENT[661](cont'd)

petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

*Public Comment*

Any interested person may submit written 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 13, 2021. Comments should be directed to:

Brian Young  
Department of Public Safety  
Oran Pape State Office Building  
215 East 7th Street  
Des Moines, Iowa 50319  
Email: [byoung@dps.state.ia.us](mailto:byoung@dps.state.ia.us)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

*Emergency Rule Making Adopted by Reference*

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 5523C**, IAB 3/24/21). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

**TREASURER OF STATE**

**Notice—Public Funds Interest Rates**

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for March is 3.00%.

**INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS**

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

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

TREASURER OF STATE(cont'd)

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

New official state interest rates, effective March 9, 2021, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

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

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

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

USURY

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

April 1, 2020 — April 30, 2020	3.50%
May 1, 2020 — May 31, 2020	2.75%
June 1, 2020 — June 30, 2020	2.75%
July 1, 2020 — July 31, 2020	2.75%
August 1, 2020 — August 31, 2020	2.75%
September 1, 2020 — September 30, 2020	2.50%
October 1, 2020 — October 31, 2020	2.75%
November 1, 2020 — November 30, 2020	2.75%
December 1, 2020 — December 31, 2020	2.75%
January 1, 2021 — January 31, 2021	2.75%
February 1, 2021 — February 28, 2021	3.00%
March 1, 2021 — March 31, 2021	3.00%
April 1, 2021 — April 30, 2021	3.25%

**ARC 5521C****WORKERS' COMPENSATION DIVISION[876]****Notice of Intended Action****Proposing rule making related to payroll tax tables  
and providing an opportunity for public comment**

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

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

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

*Purpose and Summary*

The purpose of the rule making is to update references to the tables which determine payroll taxes.

*Fiscal Impact*

The Commissioner is responsible for updating the tax tables annually. This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on April 13, 2021. Comments should be directed to:

Heather L. Palmer  
Deputy Workers' Compensation Commissioner  
150 Des Moines Street  
Des Moines, Iowa 50309  
Email: [heather.palmer@iwd.iowa.gov](mailto:heather.palmer@iwd.iowa.gov)  
Telephone: (515) 725-3826  
Cellular Telephone: (515) 829-6903  
Facsimile: (515) 281-6501

*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.

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

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

**876—8.8(85,17A) Payroll tax tables.** Tables for determining payroll taxes to be used for the period July 1, ~~2020~~ 2021, through June 30, ~~2021~~ 2022, are the tables in effect on July 1, ~~2020~~ 2021, for computation of:

1. Federal income tax withholding according to the percentage method of withholding for weekly payroll period. (Federal Income Tax Withholding Methods, Publication 15-T [~~2019~~ 2021].)
2. ~~Iowa income tax withholding for weekly pay period~~ Iowa individual income tax withholding formula. (Iowa Department of Revenue ~~Iowa Withholding Tax Rate Tables~~ [Effective January 1, ~~2020~~ 2021].)
3. Social Security and Medicare withholding (FICA) at the rate of 7.65 percent. (Internal Revenue Service, Circular E, Employer's Tax Guide, Publication 15 [~~2019~~ 2020].)

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

ARC 5523C

**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed Emergency****Rule making related to standards for electrical work**

The Electrical Examining Board hereby amends Chapter 504, “Standards for Electrical Work,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 17A.3 and 103.6.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 17A.3 and 103.6.

*Purpose and Summary*

The purpose of this rule making is to update the Standards for Electrical Work to the National Electrical Code, 2020 edition. Consistent with recent rule making in this chapter, the entire National Electrical Code (NEC) is adopted, with the time-limited amendments included in this chapter. It is the intention of the Department and the Board not to make further amendments, regardless of new additions to the NEC, until it is necessary for the state of Iowa. A significant effect of the adoption of the 2020 edition of the NEC would have been the requirement for 250-volt receptacles, but the Board, in addition to adopting the 2020 edition of the NEC by reference, is amending the 2020 edition to postpone that requirement until January 1, 2022.

Two typographical errors in the amendments are corrected as well, and language is added to better describe the receptacles that would require ground-fault circuit-interrupter (GFCI) protection.

*Reason for Adoption of Rule Making Without  
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because emergency adoption was approved by the Administrative Rules Review Committee (Committee), and a rule making was proposed (ARC 5152C, IAB 8/26/2020) with the aforementioned amendments remaining in the rules indefinitely as part of Iowa’s adoption of the 2020 NEC. That rule making was adopted on October 15, 2020 (ARC 5287C, IAB 11/18/2020). However, when the Department presented the Adopted and Filed rule making to the Committee on December 8, 2020, for the final step of the rule-making process, the Committee had serious concerns about the amendments. As a result, the Committee imposed a 70-day delay. Within the time period of that delay, 2021 Iowa Acts, House File 97, was introduced and included an amendment that would have delayed the implementation of the entire 2020 NEC until January 1, 2022. As an alternative and in the interest of getting the 2020 NEC adopted as soon as possible for the myriad benefits it offers, the Board proposed the compromise of coming forward with an emergency rule making that adopts the 2020 NEC with the previous amendments concerning 250-volt receptacles, with the proviso that those amendments shall expire on January 1, 2022. The expiration of the amendments was offered in the interest of safety and to otherwise comport with the purpose of House File 97.

In compliance with Iowa Code section 17A.4(3)“a,” the Committee, at its February 26, 2021, meeting, reviewed the Department’s determination and this rule making and approved the emergency adoption.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective



PUBLIC SAFETY DEPARTMENT[661](cont'd)

on April 1, 2021, because it confers the benefits of the 2020 NEC on the industry and the public as soon as possible without having to wait for the legislative process or any other delays. The rule making implementation date also gives the industry time to adapt before the full implementation of the NEC without amendment on January 1, 2022. Save for the time limitation on the amendments, this rule making has also already been through the rule-making process.

*Adoption of Rule Making*

This rule making was adopted by the Board on February 26, 2021.

*Concurrent Publication of Notice of Intended Action*

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 5522C** to allow for public comment.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on April 1, 2021.

The following rule-making action is adopted:

Amend **661—Chapter 504** as follows:

CHAPTER 504  
STANDARDS FOR ELECTRICAL WORK

**661—504.1(103) Installation requirements.** The provisions of the National Electrical Code, 2020 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are adopted as the requirements for electrical installations performed by persons licensed pursuant to 661—Chapters 500 through 503 and to installations subject to inspection pursuant to Iowa Code chapter 103 with the following amendments, which shall expire on January 1, 2022:

**504.1(1)** Delete section 210.8(A) and insert in lieu thereof the following new section:  
210.8(A) Dwelling Units.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

All 125-volt, single-phase, 15- and 20-ampere receptacles installed in locations specified in 210.8(A)(1) through 210.8(A)(11) shall have ground-fault circuit-interrupter protection for personnel.

(1) Bathrooms

(2) Garages and also accessory buildings that have a floor located at or below grade level not intended to be habitable rooms and limited to storage areas, work areas or similar use

(3) Outdoors

Exception to (3): Receptacles that are not readily accessible and are ~~suppled~~ supplied branch circuit dedicated to electrical snow-melting, deicing, or pipeline and vessel heating equipment shall be permitted to be installed in accordance with 426.28 or 427.22, as applicable.

(4) Crawl spaces – at or below grade level

(5) Basements

Exception to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit-interrupter protection.

Informational Note: See 760.41B and 760.121(B) for power supply requirements for fire alarm systems.

Receptacles installed under the exception to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G)

(6) Kitchens – where the receptacles are installed to serve the countertop surfaces

(7) Sinks – where receptacles are installed within 1.8 m (6 ft) from the top inside edge of the bowl of the sink

(8) Boathouses

(9) Bathtubs or shower stalls – where receptacles are installed within 1.8 m (6 ft) of the outside edge of the bathtub or shower stall

(10) Laundry areas

Exception to (1) through (3), (5) through (8), and (10): Listed locking support and mounting receptacles utilized in combination with compatible attachment fittings installed for the purpose of serving a ceiling luminaire or ceiling fan shall not be required to be ground-fault circuit-interrupter protected. If a general-purpose convenience receptacle is integral to the ceiling luminaire or ceiling fan, GFCI protection shall be provided.

(11) Indoor damp and wet locations

**504.1(2)** Delete section 210.8(F).

This rule is intended to implement Iowa Code chapter 103.

[Filed Emergency 2/26/21, effective 4/1/21]

[Published 3/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.

ARC 5538C

**CORRECTIONS DEPARTMENT[201]****Adopted and Filed****Rule making related to waivers**

The Corrections Department hereby amends Chapter 7, “Waivers and Variances,” Chapter 50, “Jail Facilities,” and Chapter 51, “Temporary Holding Facilities,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 904.108.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 17A.9A.

*Purpose and Summary*

These amendments update Chapters 7, 50, and 51 of the Department’s rules in accordance with changes included in 2020 Iowa Acts, House File 2389, section 10. The changes call for deletions of the word “variance” when the word is used in relation to “waiver.” Amendments are also made for the submission of information regarding waivers on the Legislative Services Agency’s Internet site.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5376C**. 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 March 5, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 201—Chapter 7.

*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 28, 2021.

CORRECTIONS DEPARTMENT[201](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend **201—Chapter 7**, title, as follows:  
**WAIVERS AND VARIANCES**

ITEM 2. Amend rule 201—7.1(904) as follows:

**201—7.1(904) Definition.** For purposes of this chapter, a “waiver ~~or variance~~” means an action by the department which suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~

ITEM 3. Amend rule 201—7.4(904) as follows:

**201—7.4(904) Criteria for waiver ~~or variance~~.** In response to a petition completed pursuant to rule 201—7.6(904), the department may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule if the department finds, based on clear and convincing evidence, all of the following:

- 1. to 4. No change.

ITEM 4. Amend rule 201—7.5(904) as follows:

**201—7.5(904) Filing of petition.** A petition for a waiver must be submitted in writing to the department as follows:

**7.5(1) and 7.5(2)** No change.

**7.5(3) File petition.** A petition is deemed filed when it is received in the department’s office. A petition should be sent to the Department of Corrections, ~~Policy and Legal Services Division~~, 420 ~~Watson Powell Jr. Way~~ 510 E. 12th Street, Des Moines, Iowa 50309. The petition must conform to the form specified in rule 201—7.17(904).

ITEM 5. Amend rule 201—7.12(904) as follows:

**201—7.12(904) ~~Summary reports~~ Submission of waiver information.** ~~Semiannually, the department shall prepare a summary report identifying~~ The department shall submit information about granted and denied waivers to the Internet site pursuant to Iowa Code section 17A.9A within 60 days. The submission shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the department’s actions on waiver requests. If practicable, the report submission shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself and the extent to which the granting of the waiver has established a precedent for additional waivers. ~~Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

ITEM 6. Amend rule 201—7.17(904) as follows:

**201—7.17(904) Sample petition for waiver.** A petition for waiver filed in accordance with this chapter must meet the requirements specified herein and must substantially conform to the following form:

BEFORE THE DEPARTMENT OF CORRECTIONS		
Petition by (name of petitioner) for the waiver/ <del>variance</del> of (insert rule citation) relating to (insert the subject matter).	}	PETITION FOR WAIVER/VARIANCE

- 1. Provide the name, address, and telephone number of the petitioner (person asking for a waiver ~~or variance~~). Also provide the name, address, and telephone number of the petitioner’s legal representative,

CORRECTIONS DEPARTMENT[201](cont'd)

if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

2. Describe and cite the specific rule from which a waiver is requested.
3. Describe the specific waiver requested, including the precise scope and time period for which the waiver will extend.
4. Explain the relevant facts and reasons that the petitioner believes justify a waiver. Include in your answer all of the following:
  - Why applying the rule would result in undue hardship to the petitioner;
  - Why waiving the rule would not prejudice the substantial legal rights of any person;
  - Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and
  - 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 is requested.
5. Provide a history of any prior contacts between the department and petitioner relating to the regulated activity that would be affected by the waiver.
6. Provide information known to the petitioner regarding the department’s action in similar cases.
7. Provide the name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of the petition.
8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the granting of the waiver ~~or variance~~.
9. Provide the name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
10. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

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

\_\_\_\_\_  
Petitioner’s signature

\_\_\_\_\_  
Date

ITEM 7. Amend rule **201—50.1(356,356A)**, definition of “Waiver/~~variance~~,” as follows:  
“~~Waiver~~~~variance~~” means a waiver of a specific standard granted by the Iowa department of corrections in accordance with 201—Chapter 7.

ITEM 8. Amend subrule 50.2(4) as follows:  
**50.2(4) Other standards.** Nothing contained in these standards shall be construed to prohibit local officials from adopting standards and requirements governing their employees and facilities, provided such standards and requirements exceed and do not conflict with standards mandated in this chapter. These standards shall not be construed as authority to violate any state fire safety standard, building standard, health and safety code, or any constitutional requirement. No jail shall be operated without substantially meeting these rules, absent the granting of a waiver/~~variance~~.

ITEM 9. Amend subrule 50.24(6) as follows:  
**50.24(6) Exemption from nonsecure hold standards.** Any requests for exemption from nonsecure hold standards shall be submitted according to the waiver ~~and variance~~ provisions under 201—Chapter 7, Iowa Administrative Code.

CORRECTIONS DEPARTMENT[201](cont'd)

ITEM 10. Amend rule **201—51.1(356,356A)**, definition of “Waiver/variance,” as follows:  
 “*Waiver/variance*” means waiver of a specific standard granted by the jail inspection unit in accordance with these rules.

[Filed 3/5/21, effective 4/28/21]

[Published 3/24/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.

**ARC 5524C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to Accelerated Career Education (ACE) Program**

The Economic Development Authority (IEDA) hereby amends Chapter 20, “Accelerated Career Education (ACE) Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 260G.

*Purpose and Summary*

The ACE Program administered pursuant to Iowa Code chapter 260G assists Iowa’s community colleges in establishing or expanding programs that train individuals in the occupations most needed by Iowa businesses. This rule making clarifies the roles of the Authority and the community colleges and eliminates references to program components that have been repealed. IEDA staff partnered with community college representatives involved in administering the program to update the rules.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5387C**.

Several comments were provided on behalf of community college presidents. The first comment noted that IEDA currently exercises approval authority of community college programs and agreements as part of its administration of the program, but the approval responsibilities are not explicitly outlined in Iowa Code chapter 260G as in the proposed rules. In response, IEDA clarified the statutory basis for its role in the program in Iowa Code section 260G.4C, which states, in part, “The economic development authority shall administer the statewide allocations of program job credits to accelerated career education programs.” A second comment asserted that the proposed rules changed how program information is reported to the Iowa Department of Revenue (IDR) in a way that was inconsistent with Iowa Code sections 260G.3 and 260G.4A. The adopted amendments correct these inconsistencies. The final comment noted the term “vertical infrastructure” is used in Iowa Code section 260G.6, while a definition of the term is eliminated from the rules. In response, IEDA clarified that, with the exception of the definition, all rules in 261—Chapter 20 using the term “vertical infrastructure” were rescinded in 2013 because the relevant program component is now administered by the Department of Education.

Two changes from the Notice have been made. In Item 6, paragraph 20.5(3)“b” has been updated to clarify that IEDA certifies that the amount of program job credits is in accordance with each program agreement on behalf of the community colleges. This change makes the paragraph consistent with Iowa Code section 260G.4A(3), which states the certification is made by the colleges. In Item 7, paragraph

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

20.6(8)“a” has been updated to clarify that IEDA notifies the IDR on behalf of the community colleges when a program agreement is entered. This change makes the paragraph consistent with Iowa Code section 260G.3(2), which states the colleges shall notify IDR when a program agreement is entered. In Item 7, paragraph 20.6(2)“h,” the word “that” has been changed to “who” to be consistent with the language in Iowa Code section 260G.3(7).

*Adoption of Rule Making*

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

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on April 28, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind **261—Chapter 20**, Division I to Division V headings.

ITEM 2. Amend rule 261—20.1(260G) as follows:

**261—20.1(260G) Purpose.** ~~The ACE program has three parts: the capital costs component, the program job credits component, and the accelerated career education grants program. The economic development authority administers the program job credits component. The college student aid commission administers the career education grants portion of the ACE program as described in the commission’s administrative rules. The of education administers the capital costs component. The goal of the ACE accelerated career education (ACE) program is designed to provide businesses with an enhanced skilled workforce in Iowa. The program assists Iowa’s community colleges in establishing or expanding programs that train individuals in the occupations most needed by Iowa businesses.~~

ITEM 3. Amend rule 261—20.2(260G) as follows:

**261—20.2(260G) Definitions.**

“260G data system” means the data system established by the authority to record data, upload documentation, and track programs and agreements.

“Accelerated career education program” or “ACE program” means the program established pursuant to Iowa Code chapter 260G and administered by the authority.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~“Agreement” means a program agreement referred to in Iowa Code section 260G.3 between an employer and a community college.~~

~~“Allotment” means the distribution of program job credits based upon need as determined by among the community colleges in accordance with Iowa Code section 260C.18C.~~

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

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

~~“Community college” means a community college established under Iowa Code chapter 260C or a consortium of two or more community colleges.~~

~~“Community college board” means the governing board of a merged area as defined in Iowa Code section 260C.11.~~

~~“Employee” means a person employed in a program job.~~

~~“Employer” means a business or consortium of businesses engaged in interstate or intrastate commerce for the purposes of manufacturing, processing or assembling products; construction; conducting research and development; or providing services in interstate or intrastate commerce, but excluding retail services.~~

~~“Highly skilled job” means a job with a broadly based, high-performance skill profile including advanced computation and communication skills, technology skills and workplace behavior skills, and for which an applied technical education is required.~~

~~“Participant” means an individual who is enrolled in an accelerated career education program at a community college.~~

~~“Participant position” means the individual student enrollment position available in an accelerated career education program.~~

~~“Program” means a program of instruction designed by a community college which has been designated by a community college board and approved by the authority as meeting the requirements of Iowa Code section 260G.4.~~

~~“Program agreement” means an agreement between an employer and a community college as described in Iowa Code section 260G.3.~~

~~“Program capital cost” means classroom and laboratory renovation, new classroom and laboratory construction, site acquisition or preparation.~~

~~“Program job” means a highly skilled job available from an employer pursuant to a program agreement.~~

~~“Program job credit” means a credit that an employer may claim against all withholding taxes due in an amount up to 10 percent of the gross program job wage of a program job position as authorized in an agreement between a community college and an employer.~~

~~“Program job position” means a job position which is planned or available for an employee by the employer pursuant to a program agreement.~~

~~“Program operating costs” means all necessary and incidental costs of providing program services.~~

~~“Program services” means services that include all of the following provided they are pursuant to a program agreement: program needs assessment and development, job task analysis, curriculum development and revision, instruction, instructional materials and supplies, computer software and upgrades, instructional support, administrative and student services, related school to career training programs, skill or career interest assessment services and testing and contracted services.~~

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

ITEM 4. Amend rule 261—20.3(260G) as follows:

**261—20.3(260G) ACE program Program eligibility and designation.**

**20.3(1)** In order to receive tax an allotment of program job credits, ~~from withholding under the program job credits component or financial assistance through the college student aid commission’s~~



## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~accelerated career education grants program, a program must be designated by a community college as must designate an eligible ACE program. All programs must demonstrate increased capacity to enroll additional students. To be eligible, a program must be either:~~

~~a. A credit career or technical education program resulting in the conferring of a certificate, diploma, associate of science degree, or associate of applied science degree; or~~

~~b. A credit-equivalent career or technical education program consisting of not less than 540 contact hours of classroom and laboratory instruction and resulting in the conferring of a certificate or other recognized, competency-based credential.~~

~~20.3(2) By resolution of a community college board of directors, shall designate and approve an eligible program may be approved and designated as an ACE program by resolution. The respective community college board(s) board of directors shall ensure compliance with Iowa Code chapter 260G. In designating ACE programs, the respective community college board(s) shall give priority to targeted industries as designated by the authority.~~

~~20.3(3) A copy of the designated ACE program agreement shall be submitted to the authority. The agreement shall state which program component (job credits or education grants, or both if applicable) is included in the agreement. The authority will review and approve all program designations and maintain a record of all approved ACE programs.~~

~~20.3(4) The authority will review the ACE job credits component of the program for issues of quality in accordance with rule 261—20.16(260G).~~

ITEM 5. Amend rule 261—20.4(260G) as follows:

**261—20.4(260G) Funding allocation.**

**20.4(1) Base allocation.** The authority shall allocate the total amount of program job credits authorized and available to each community college for each fiscal year based on the formula established in Iowa Code section 260C.18C. For purposes of such allocation, the applicable ratios shall be applied to commitments made by community colleges at the beginning of each fiscal year.

a. Funds for ACE program job credits shall be allocated among the community colleges in the state for the fiscal years and in the amounts specified in Iowa Code chapter 260G and these rules.

b. Community colleges shall submit program agreements to access allotted funds for program job credits. The program agreement shall document the findings of the community college that all ACE eligibility requirements have been met.

~~20.4(2) Alternate allotment. Allotment of uncommitted funds. If a community college fails to commit any of its allotment by April 1 of the fiscal year, the funds for that community college will be allocated to other community colleges based upon need as described in these rules. Each community college shall commit its allotment of program job credits as of April 1 of each fiscal year. Program job credits are considered to be committed if there is a signed an executed program agreement in place or if there is a statement of intent in place that states that a signed program agreement will be in place executed by May 1 of the current fiscal year. Uncommitted funds shall be reallocated on a first-come, first-served basis to other community colleges with executed program agreements that have not received all of the program job credits required. Funds that remain uncommitted as of June 30 will be reallocated based on the formula established in Iowa Code section 260C.18C for use during the following fiscal year.~~

**20.4(3) Authority role.** The authority shall calculate and report to each community college its allotment. The authority may deny the allocation of program job credits to any program which fails to comply with Iowa Code chapter 260G. The authority shall maintain records of the proposed program job credits under each agreement for each fiscal year.

**20.4(4) Submission of program agreements.** A community college shall submit program agreements via the 260G data system to access its allotment of program job credits.

**20.4(5) Total amount of program job credits in any one fiscal year.** The total amount of program job credits from all employers which shall be allocated for all programs in any one fiscal year shall not exceed the amount specified in Iowa Code section 260G.4B(1).

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 6. Rescind rule 261—20.5(260G) and adopt the following new rule in lieu thereof:

**261—20.5(260G) Program job credits.**

**20.5(1) Eligibility.** To be eligible to receive program job credits, an employer shall demonstrate it has met the following requirements:

*a.* The program agreement must provide for pledged program positions paying at least 200 percent of the federal poverty level for a family of two as calculated at the time of approval of the agreement or any renewal. If the wage designated is to become effective after a training or probationary period, the employer must document that there is a plan in place regarding time frames for transition to the permanent full-time wage, and the employer must provide documentation that these time frames are reasonable and that the employer has previously adhered to the time frames.

*b.* The program agreement must establish a 20 percent employer cash or in-kind match for program costs.

**20.5(2) Determination of job credit amounts.**

*a.* Program job credits shall be based upon the program job positions identified in the program agreement. No costs incurred prior to the effective date of a program agreement may be reimbursed or eligible for program job credits.

*b.* Eligibility for program job credits shall be based on certification of program job positions and program job wages by the employer at the time established in the agreement.

*c.* An amount up to 10 percent of the gross program job wages as certified by the employer in the agreement shall be credited from the total payment made by an employer pursuant to Iowa Code section 422.16.

*d.* The employer shall remit the amount of the credit quarterly, in the same manner as withholding payments are reported to the department of revenue, to the community college to be allocated to and, when collected, paid into a special fund of the community college to pay, in part, the program costs.

*e.* When the program costs have been paid, the employer credits shall cease. Any moneys received after the program costs have been paid shall be remitted to the treasurer of state to be deposited in the general fund of the state.

**20.5(3) Certification to department of revenue.**

*a.* The employer shall certify to the department of revenue that the program job credits are in accordance with the program agreement and shall provide other information the department may require.

*b.* The authority shall certify to the department of revenue on behalf of the community colleges that the amount of the program job credits is in accordance with each program agreement and shall provide other information the department may require.

ITEM 7. Amend rule 261—20.6(260G) as follows:

**261—20.6(260G) Program agreements and administration.**

**20.6(1)** Program agreements will be developed by an employer, and a community college ~~and any employee of an employer representing a program job~~. The development of the program agreements may be facilitated by an entity representing a group of employers. ~~Any community college that has an employer from its merged area involved in an ACE project must enter into the agreement.~~ If a bargaining unit is in place with the employer pledging the jobs, a representative of the bargaining unit shall take part in the development of the program agreement. All participating parties must sign the program agreement. The program agreement must include employer certification of contributions that are made toward the program costs.

**20.6(2)** A program agreement shall include, at a minimum, the following terms: ~~match~~

*a.* Match provided by the employer; ~~tuition~~

*b.* Tuition, student fees, or special charges fixed by the community college board of directors; ~~guarantee~~

*c.* Guarantee of employer payments; ~~type~~

*d.* Type and amount of funding sources that will be used to pay for program costs; ~~description~~

*e.* Description of program services and implementation schedule; ~~the~~

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

- f. The term of the agreement, not to exceed five years; ~~the~~
- g. The employer's agreement to interview graduates for full-time positions and provide hiring preference; ~~for~~
- h. For employers with more than four sponsored participants, certification that a job offer will be made to at least 25 percent of those participants ~~that~~ who complete the program; ~~an~~
- i. An agreement by the employer to provide a wage level of no less than 200 percent of the federal poverty guideline for a family of two; a
- j. A provision that the employer does not have to fulfill the job offer requirement if the employer experiences an economic downturn; a
- k. A provision that the participants will agree to interview with the employer following completion of the program; and ~~default~~
- l. Default procedures.

**20.6(3)** ~~Projects that cross community college boundaries, or projects that involve employers from multiple community college areas, must be conducted pursuant to an agreement or agreements with each college. Program agreements shall be submitted to the authority via the 260G data system. Program agreements shall document the findings of the community college that all program and employer eligibility requirements have been met. The authority will review agreements for issues of quality. The authority will maintain a record of all approved agreements.~~

**20.6(4)** Term, amendments, and renewals.

a. Term. The term of a program agreement shall not exceed five years from the effective date of the agreement. Once a program agreement is approved, the authority will obligate job credits, contingent upon the availability of funding, for each year of the term of the agreement.

b. Amendments. A program agreement shall be amended only with the consent of both parties and approval by the authority. A program agreement can be amended to extend the term of the agreement a maximum of two years.

c. Renewals. A program agreement may be renewed upon completion of its approved term. The community college must demonstrate the program meets the eligibility requirements in Iowa Code section 260G.4, including increased program capacity, as of the date of approval of renewal by the authority. A renewed agreement, including exhibits, shall be entered and uploaded into the 260G data system. In order to renew an agreement, the following budgeted items and employer commitments shall be updated:

- (1) Sponsored positions;
- (2) Program costs;
- (3) Changes in tuition;
- (4) Other fees;
- (5) Changes in salaries and expenses;
- (6) Federal poverty thresholds;
- (7) Income;
- (8) Employer match amounts;
- (9) Any other items identified by the authority.

**20.6(5)** The 260G data system will automatically assign a 12-digit agreement number once the agreement data is entered and approved. The agreement number will remain the same if an approved agreement is extended or otherwise amended. Program agreements that are renewed pursuant to paragraph 20.6(4) "c" will be assigned a new 12-digit number.

**20.6(6)** The authority shall provide information about the ACE program in accordance with its annual reporting requirements in Iowa Code section 15.107B.

**20.6(7)** Each community college shall establish a monitoring system which includes, at a minimum, a review of employers' compliance with Iowa Code, these rules, and the program agreement. Monitoring shall be conducted at least annually by community colleges with active program agreements. Each community college shall document its monitoring efforts and promptly notify the authority of any changes.

**20.6(8)** Coordination with other state agencies.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*a. Department of revenue.* When a program agreement is approved for funding, the community college shall notify the authority through the 260G data system, and the authority shall notify the department of revenue on behalf of the community college within 30 days of the date of its approval. Information to be provided to the department of revenue includes, but is not limited to, program agreement number, employer name, employer address, start and expiration dates, federal employer identification number, wages, sponsored positions, and approved amount of program job credits. If, at any time after a program agreement is approved, changes are made that would affect the above reporting requirements, the department of revenue and the authority shall be notified within 30 days.

*b. Iowa workforce development.* Community colleges and the authority shall provide program data to Iowa workforce development as required.

*c. Department of education.* Community colleges and the authority shall provide program data to the department of education as required.

**20.6(9)** Program costs for new and renewal program agreements shall be calculated or recalculated based on the required program services for a specific number of participants. Program agreement updates reflecting this recalculation must be submitted to the authority to review compliance.

ITEM 8. Rescind and reserve rules **261—20.7(260G)** to **261—20.9(260G)**.

ITEM 9. Rescind and reserve rules **261—20.13(260G)** to **261—20.19(81GA, HF868, HF809)**.

[Filed 2/23/21, effective 4/28/21]

[Published 3/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.

**ARC 5525C**

## **ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]**

**Adopted and Filed**

### **Rule making related to update of rules**

The Iowa Ethics and Campaign Disclosure Board hereby rescinds Chapter 3, "Iowa Election Campaign Fund," and amends Chapter 4, "Campaign Disclosure Procedures," Chapter 5, "Use of Public Resources for a Political Purpose," Chapter 6, "Executive Branch Ethics," Chapter 8, "Executive Branch Lobbying," and Chapter 15, "Waivers or Variances from Administrative Rules," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 68B.32A(1).

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 17A, 68A and 68B.

#### *Purpose and Summary*

The rescission of Chapter 3 implements 2017 Iowa Acts, House File 242, which repealed Iowa Code sections 68A.601 through 68A.609. The amendments bring the rules in conformity with the current versions of Iowa Code chapters 68A and 68B, including correcting typographical errors, updating citations, updating contact information, and implementing 2014 Iowa Acts, House File 2473; 2015 Iowa Acts, Senate File 135; 2015 Iowa Acts, Senate File 199; 2018 Iowa Acts, Senate File 2256; 2018 Iowa Acts, House File 2475; 2019 Iowa Acts, House File 392; and 2020 Iowa Acts, House File 2389.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 21, 2020, as **ARC 5236C**. A public hearing was held on November 13, 2020, at 2 p.m. via teleconference. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on February 25, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 351—Chapter 15.

*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 28, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind and reserve **351—Chapter 3**.

ITEM 2. Amend subrule 4.1(1), introductory paragraph, as follows:

**4.1(1) Persons subject to requirement.** Every committee shall file a statement of organization (Form DR-1) within ten days from the date of its organization. The forms shall be ~~either typewritten or printed legibly in black ink~~ filed in electronic format.

ITEM 3. Amend subparagraph **4.1(1)“a”(1)** as follows:

(1) A “candidate’s committee” that is the committee, even if the committee consists only of the candidate, designated by a candidate for a state or local office to receive contributions, make expenditures, or incur debts in excess of ~~\$750~~ \$1,000.

ITEM 4. Amend subparagraph **4.1(1)“a”(2)** as follows:

(2) A “political committee” (PAC) that is a committee exceeding the ~~\$750~~ \$1,000 organizational threshold to expressly advocate the nomination, election, or defeat of candidates or to expressly advocate the passage or defeat of a ballot issue. The board shall automatically classify as a political committee any political organization that loses its status as a political party because it fails to meet the requirements of Iowa Code section 43.2. The board shall automatically classify as a political committee any county central committee that operated under the former political party.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 5. Amend paragraph **4.1(1)“b”** as follows:

*b. When organization occurs; financial thresholds.* At the latest, organization is construed to have occurred as of the date that the committee first exceeded \$750 \$1,000 of financial activity in a calendar year in any of the following categories: contributions received (aggregate of monetary and in-kind contributions); expenditures made; or indebtedness incurred.

ITEM 6. Amend paragraph **4.1(1)“c”** as follows:

*c. Permanent organizations temporarily engaging in political activity.* The requirement to file the statement of organization applies to an entity that comes under the definition of a “political committee” (PAC) in Iowa Code ~~Supplement~~ section 68A.102(18) by receiving contributions, making expenditures, or incurring debts in excess of \$750 \$1,000 in any one calendar year for the purpose of expressly advocating the election or defeat of a candidate for public office, or for the purpose of expressly advocating the passage or defeat of a ballot issue. A permanent organization that makes a one-time contribution in excess of \$750 \$1,000 may in lieu of filing a statement of organization follow the procedure in rule 351—4.35(68A). A permanent organization that makes loans to a candidate or committee or that is owed debts from a candidate or committee is not deemed to be engaging in political activity requiring registration.

ITEM 7. Amend subrule 4.1(2) as follows:

**4.1(2) Place of filing.** Statements of organization ~~mandated by statute to be filed electronically with the board~~ shall be filed through the board’s ~~Web site~~ website at www.iowagov/ethics ethics.iowa.gov. ~~A statement of organization not mandated by statute to be filed electronically may be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319; by fax at (515)281-4073; or as an E-mail attachment.~~

ITEM 8. Amend subrule 4.1(3) as follows:

**4.1(3) Time of filing.** A statement of organization shall be filed with the board within ten days after the financial filing threshold in subrule 4.1(1) has been exceeded. ~~A statement must be physically received by the board or, if mailed, must bear a United States Postal Service postmark dated on or before the report due date. Faxed or electronically filed statements must be submitted on or before 11:59 p.m. of the tenth day after the organization of the committee is required.~~ A committee that is ~~mandated by statute to electronically file a statement of organization~~ shall file the statement with the board on or before 4:30 p.m. on the due date. If the tenth day falls on a Saturday, Sunday, or holiday on which the board office is closed, the filing deadline is extended to the next working day when the board office is open.

ITEM 9. Amend subrule 4.1(6) as follows:

**4.1(6) Electronic format or electronic filing defined.** “Electronic format” or “electronic filing” means the board’s electronic filing system for submitting a statement of organization via the board’s ~~Web site~~ website at www.iowa.gov/ethics ethics.iowa.gov.

ITEM 10. Amend rule **351—4.1(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 68A.201 and ~~section~~ 68A.401 as ~~amended by 2009 Iowa Acts, Senate File 51, section 1.~~

ITEM 11. Amend rule **351—4.2(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.201.

ITEM 12. Amend rule **351—4.3(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.201.

ITEM 13. Amend subrule 4.4(3) as follows:

**4.4(3) Signatures.** ~~The candidate and treasurer shall sign the statement of organization filed by a candidate’s committee. The chairperson and treasurer shall sign a statement of organization filed by any other type of committee.~~ A statement of organization filed electronically using the board’s ~~Web site~~ website is deemed signed when filed.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 14. Amend rule **351—4.4(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.201.

ITEM 15. Amend rule **351—4.5(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ sections 68A.201 and 68A.203.

ITEM 16. Amend subrule 4.6(1) as follows:

**4.6(1) Amendment within 30 days.** If there is a change in any of the information disclosed on a statement of organization, the committee shall file with the board an amended statement within 30 days of the change. An amended statement shall be filed with the board in a format as required by ~~2009 Iowa Code Supplement~~ section 68A.401 as amended by ~~2010 Iowa Acts, Senate File 2128, section 3, and board rule 351—4.1(68A,68B)~~ this chapter.

ITEM 17. Amend subrule 4.6(2) as follows:

**4.6(2) New office sought.** A candidate who filed a statement of organization for one office but eventually seeks another office may file an amended statement of organization to reflect the change in office sought in lieu of dissolving the old committee and organizing a new committee. A candidate filing an amended statement of organization for a new office shall continue to file the required campaign reports regardless of whether the \$750 \$1,000 financial filing threshold for the new office has been exceeded. A candidate who has filed a statement of organization for one office and who then exceeds the financial activity threshold as set forth in Iowa Code section 68A.102(5) for a new office shall, within ten days of exceeding the threshold, file either an amended statement of organization disclosing information for the new office sought or organize and register a new committee.

ITEM 18. Amend rule **351—4.6(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.201.

ITEM 19. Amend subrule 4.7(3) as follows:

**4.7(3) Funds available from prior committee.** If funds are available to a candidate's committee from a prior candidacy of that candidate, or to a ballot issue committee from a prior effort on a ballot issue, and the prior candidacy or effort had not exceeded the financial reporting threshold, the carryover balance shall be disclosed by the new committee. The disclosure shall be made on Schedule A - Contributions and shall include the amount of the carryover, the date of the prior election, and the name and address of any source that made contributions to the candidacy or ballot effort that totaled more than \$750 \$1,000 during the preceding three calendar years.

ITEM 20. Amend subrule 4.7(4) as follows:

**4.7(4) Funds available from preballot issue activity.** Funds that are raised for an activity that is not included in the definition of a ballot issue in Iowa Code ~~Supplement~~ section 68A.102(1) and that are made available to a subsequent ballot issue committee shall be disclosed by the committee. The disclosure shall be made on Schedule A - Contributions and shall include the amount of the carryover balance, the date of the preballot issue activity, and the name and address of any source that made contributions to the activity that totaled more than \$750 \$1,000 during the previous three calendar years.

ITEM 21. Amend rule **351—4.7(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.402.

ITEM 22. Amend subrule 4.8(1) as follows:

**4.8(1) Place of filing.** Disclosure reports ~~mandated by statute to be filed electronically with the board~~ shall be filed through the board's ~~Web site~~ website at [www.iowagov/ethics](http://www.iowagov/ethics) [ethics.iowa.gov](http://ethics.iowa.gov). ~~A disclosure report not mandated by statute to be filed electronically may be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319; by fax at (515)281-4073; or as an E-mail attachment.~~

ITEM 23. Amend subrule 4.8(2) as follows:

**4.8(2) Reports made available.** The board shall post on its ~~Web site~~ website at [www.iowa.gov/ethics](http://www.iowa.gov/ethics) [ethics.iowa.gov](http://ethics.iowa.gov) all statements and reports filed under Iowa Code chapter 68A.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 24. Amend subrule 4.8(4) as follows:

**4.8(4) *Electronic format or electronic filing defined.*** “Electronic format” or “electronic filing” means the board’s electronic filing system for submitting campaign disclosure reports via the board’s Web site website at [www.iowa.gov/ethics](http://www.iowa.gov/ethics) [ethics.iowa.gov](http://ethics.iowa.gov).

ITEM 25. Amend rule ~~351—4.8(68A,68B)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section sections~~ 68A.401 as amended by 2009 Iowa Acts, Senate File 51, section 1, and section 68A.402 as amended by 2009 Iowa Acts, Senate File 49, section 4.

ITEM 26. Amend subrule 4.9(6) as follows:

**4.9(6) *State statutory political committee (state political party).*** A committee defined in Iowa Code Supplement section ~~68A.102(22)~~ 68A.102(21) as a state statutory political committee shall file campaign disclosure reports as follows:

*a. and b.* No change.

ITEM 27. Amend subrule 4.9(7) as follows:

**4.9(7) *County statutory political committee (county central committee).*** A committee defined as a county statutory political committee in Iowa Code Supplement section 68A.102(12) shall file campaign disclosure reports as follows:

*a. and b.* No change.

ITEM 28. Amend subrule 4.9(13) as follows:

**4.9(13) *Permanent organizations.*** A permanent organization temporarily engaging in political activity as described in Iowa Code Supplement section 68A.102(18) shall organize a political committee and shall keep the funds relating to that political activity segregated from its operating funds. The committee shall file reports on the applicable due dates as required by this rule. The reports shall identify the source of the original funds used for a contribution made to a candidate or a candidate’s committee. When the permanent organization ceases to be involved in the political activity, the permanent organization shall dissolve the political committee. “Permanent organization” means an organization that is continuing, stable, and enduring, and was originally organized for purposes other than engaging in election activities.

ITEM 29. Amend subrule 4.9(15) as follows:

**4.9(15) *Independent expenditure reporting.*** An independent expenditure committee that is required to file campaign disclosure reports pursuant to 2009 Iowa Code Supplement section 68A.404(3) as amended by 2010 Iowa Acts, Senate File 2354, section 3, shall file an initial report at the same time as the committee files its original independent expenditure statement. ~~The committee shall then continue to file reports according to the same schedule as the office or election to which the independent expenditure was directed until the committee files a notice of dissolution pursuant to Iowa Code section 68A.402B(3) as amended by 2010 Iowa Acts, Senate File 2354, section 2.~~ Form Ind-Exp-O shall serve as a campaign disclosure report for an independent expenditure committee. Form Ind-Exp-I shall serve as a campaign disclosure report for a sole individual making an independent expenditure.

ITEM 30. Amend rule 351—4.10(68A) as follows:

**351—4.10(68A) *Time of filing.*** A report must be physically received by the board or, if mailed, shall bear a United States Postal Service postmark dated on or before the report due date. Faxed, E-mailed, or electronically filed reports must be submitted on or before 11:59 p.m. of the report due date. However, as provided in Iowa Code section 68A.402 as amended by 2009 Iowa Acts, Senate File 49, section 4, any report that is required to be filed five days or less prior to an election must be physically received by the board prior to 4:30 p.m. on the report due date. A report that is mandated by statute to be electronically filed shall be filed with the board on or before 4:30 p.m. on the due date. If the due date falls on a



## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Saturday, Sunday, or holiday on which the board office is closed, the due date is extended to the first working day when the board office is open.

This rule is intended to implement Iowa Code section sections 68A.401(1) as amended by 2009 Iowa Acts, Senate File 51, and section 68A.402 as amended by 2009 Iowa Acts, Senate File 49, section 4.

ITEM 31. Amend subrule 4.11(1) as follows:

**4.11(1)** *Persons voluntarily registering a committee.* A person that has not exceeded the ~~\$750~~ \$1,000 financial filing threshold may file Form DR-SFA for purposes of using the short form “paid for by” attribution statement under Iowa Code section 68A.405 and rule 351—4.38(68A). A person using the short form “paid for by” attribution statement shall file Form DR-SFA with the board prior to distributing the political material containing the short form “paid for by” attribution statement.

ITEM 32. Amend subrule 4.11(2) as follows:

**4.11(2)** ~~\$750~~ \$1,000 *threshold later exceeded.* A person filing Form DR-SFA shall not be required to file a statement of organization or be required to file disclosure reports unless the ~~\$750~~ \$1,000 threshold is later exceeded. A person that later exceeds the ~~\$750~~ \$1,000 threshold and that fails to timely file a statement of organization or to timely file disclosure reports may be subject to the appropriate board sanctions as set out by statute and board rule.

ITEM 33. Amend rule 351—4.13(68A,68B) as follows:

**351—4.13(68A,68B) Report forms—summary page (DR-2) and supporting schedules.** The board may require committees to submit relevant information not specifically delineated in Iowa Code Supplement chapter 68A on their disclosure report where the report form asks for ~~and leaves space for~~ information. All information shall be pertinent to the duties of the board.

**4.13(1) Official reporting forms.** ~~The disclosure reporting forms provided by the board shall be the official forms on which the disclosure reports shall be submitted using the forms provided in the board's electronic filing system via the board's website at ethics.iowa.gov. Machine copies of original report forms are acceptable.~~ The standard forms for campaign disclosure reports are:

- DR-2 — Disclosure Summary Page
- Schedule A — Monetary Receipts
- Schedule B — Monetary Expenditures
- Schedule C — (Reserved)
- Schedule D — Incurred Indebtedness
- Schedule E — In-kind Contributions
- Schedule F — Loans Received and Repaid
- Schedule G — Consultant Activity
- Schedule H — Campaign Property

**4.13(2) Computer-generated reports.** ~~Committees that are not mandated by statute to file disclosure reports electronically may generate a disclosure report in lieu of using a board-approved paper report or the board's electronic filing system so long as the generated report contains the same information and is in the same basic format as a board-approved paper report. A committee failing to submit a generated report that contains the same information and is in the same basic format as a board-approved paper report shall be required by the board's staff to file an amended report, and the committee may be subject to board sanctions as provided in Iowa Code chapter 68B and rule 351—9.4(68B).~~

**4.13(3) Typewritten or legible ink reports required.** ~~Information provided on all forms, statements, and reports that are required to be filed under Iowa Code chapter 68A or the board's rules in 351—Chapter 4 and that are not mandated by statute to be filed electronically shall be either typewritten or printed legibly in black ink. Approved computer-generated documents satisfy this requirement. If the board deems that a form, statement, or report is not legible or is otherwise not in compliance with rule 351—4.13(68A,68B), the person shall be required to file an amended form, statement, or report and the person may be subject to board sanctions as provided in Iowa Code chapter 68B and rule 351—9.4(68B).~~

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

~~4.13(4)~~ **4.13(2)** *Special information required for city, school, or local ballot issue elections.* Committees expressly advocating the election or defeat of a candidate for city or school public office, or expressly advocating the passage or defeat of a local ballot issue, shall indicate in the designated spaces on the report summary page the date that the election is to be held, the period covered by the disclosure report, and the control county responsible for conducting the election.

~~4.13(5)~~ *Signature on DR-2 Report Summary Page.* A disclosure report shall be signed by the individual filing the report. A disclosure report filed electronically using the board's Web site is deemed signed when filed.

~~4.13(6)~~ **4.13(3)** *Independent expenditure disclosures.* An independent expenditure committee that is required to file campaign reports pursuant to 2009 Iowa Code Supplement section 68A.404(3) as amended by 2010 Iowa Acts, Senate File 2354, section 3, A person making an independent expenditure shall disclose campaign transaction information as required by Iowa Code section 68A.402A 68A.404(3). However, the committee is required to disclose only those monetary receipts as provided in 2009 Iowa Code Supplement section 68A.404(3) "a"(2) as amended by 2010 Iowa Acts, Senate File 2354, section 3. Form Ind-Exp-O shall serve as a campaign disclosure report for an independent expenditure committee. Form Ind-Exp-I shall serve as a campaign disclosure report for a sole individual making an independent expenditure.

This rule is intended to implement Iowa Code Supplement sections ~~68A.402~~ 68A.402A and ~~68A.403~~ 68A.404.

ITEM 34. Amend subrule 4.14(4) as follows:

**4.14(4)** *Unitemized contributions and freewill donations.* If the committee does not choose to itemize all contributions under the itemization threshold (\$25 for most committees, see Iowa Code Supplement section ~~68A.402(3) "b"~~ 68A.402A(1) "b"), it shall aggregate these contributions and report the aggregate amount as "unitemized contributions." No date received is required to be provided for miscellaneous unitemized contributions. Unitemized contributions may be solicited and received through a freewill donation such as a "fish bowl" or "pass the hat" collection if the collection is in compliance with rule 351—4.30(68A,68B). Unitemized contributions collected through freewill donations (the net amount of the collection after the itemization of those persons whose contributions of more than ~~\$10~~ \$25 in the freewill collection resulted in exceeding the annual itemization threshold) shall be reported by showing the net amount as "unitemized contributions—pass the hat (or can collection or fish bowl, for example) collection." The "date received" to be reported for a freewill donation is the date a representative of the committee takes possession of the proceeds of the collection.

ITEM 35. Amend subrule 4.14(6) as follows:

**4.14(6)** *ID number and check number.* If a contribution to a statewide or general assembly candidate or a judge standing for retention is from a statewide political committee (PAC) or a state party committee, the candidate receiving the contribution shall include on the candidate's disclosure report the board-assigned identification number of the contributing committee and the check number by which the contribution was made. A list of ID numbers may be obtained from the board and is also available on the board's Web site website at [www.iowa.gov/ethics](http://www.iowa.gov/ethics) [ethics.iowa.gov](http://ethics.iowa.gov).

ITEM 36. Amend subrule 4.15(5) as follows:

**4.15(5)** *Candidate ID number and committee check number.* If a contribution is made by a statewide political committee (PAC) or a state party committee to a statewide or general assembly candidate or a judge standing for retention, the committee making the contribution shall include on the committee's disclosure report the board-assigned identification number of the recipient candidate's committee and the check number by which the contribution was made. A list of candidate ID numbers may be obtained from the board and is also available on the board's Web site website at [www.iowa.gov/ethics](http://www.iowa.gov/ethics) [ethics.iowa.gov](http://ethics.iowa.gov).

ITEM 37. Amend rule ~~351—4.15(68A,68B)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section 68A.402.

ITEM 38. Amend rule ~~351—4.16(68A,68B)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section 68A.402.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 39. Amend rule **351—4.17(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.402.

ITEM 40. Amend rule **351—4.18(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.402.

ITEM 41. Amend rule **351—4.19(68A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 68A.102(9) ~~as amended by 2005 Iowa Acts, House File 312, section 3,~~ and 68A.402A.

ITEM 42. Amend rule **351—4.20(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ sections 68A.304 and 68A.402.

ITEM 43. Amend subrule 4.22(2) as follows:

**4.22(2)** If, upon review, board staff determine that a committee's report is incomplete because required information has been omitted or has been incorrectly reported, the staff shall communicate the deficiencies to the committee. A failure to satisfactorily respond to or to remedy the error or omission may be grounds for a violation of Iowa Code ~~Supplement~~ section 68A.402 as a failure to file a report which conforms to the requirements of that provision.

ITEM 44. Amend rule **351—4.22(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement section~~ sections 68A.402 and ~~Iowa Code section~~ 68B.32A.

ITEM 45. Amend rule **351—4.23(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.402.

ITEM 46. Amend rule 351—4.24(68A) as follows:

**351—4.24(68A) Reporting of state party building fund transactions.** Pursuant to Federal Election Commission Advisory Opinion 2004-28, the board will permit a state statutory political committee (state party committee) to receive contributions from corporations, insurance companies, and financial institutions when those contributions are placed in the state party building fund account, the contributions are used to pay for costs associated with the building, and all transactions involving the fund are disclosed pursuant to this rule.

~~A state party committee filing a state party building fund report under this rule shall use either the report form prescribed by the board or a computer-generated report so long as the report includes the information required under subrule 4.24(2).~~

**4.24(1)** and **4.24(2)** No change.

**4.24(3) Place of filing.** A state party building fund report shall be filed with the board at 510 ~~E.~~ East 12th Street, Suite 1A, Des Moines, Iowa 50319, ~~or;~~ by fax at ~~(515)281-3701~~ (515)281-4073; or as an email attachment.

**4.24(4) Time of filing.** A state party building fund report shall be filed on or before January 31 of each year. If mailed, the report must bear a United States Postal Service postmark dated on or before the due date. A faxed or emailed report must be submitted on or before 11:59 p.m. on the due date. If January 31 falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date shall be extended to the next working day when the board office is open.

**4.24(5)** No change.

This rule is intended to implement Iowa Code sections 68A.402A(1) "k" and 68A.503.

ITEM 47. Amend paragraph **4.25(1) "I"** as follows:

*l.* Payment of salaries, fringe benefits, bonuses, and payroll taxes of paid campaign staff. As provided in Iowa Code section 68A.302(2) ~~as amended by 2009 Iowa Acts, Senate File 50, section 1,~~ 68A.302(2) "k," family members who perform actual work or services for a campaign and are not the candidate, candidate's spouse, or candidate's dependent children may be compensated for such work or services.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 48. Amend paragraph **4.25(1)“u”** as follows:

*u.* Repayment of campaign loans made to the committee. ~~As provided in Iowa Code section 68A.302(2) as amended by 2009 Iowa Acts, Senate File 50, section 1, candidates~~ Candidates who make loans to their own committees shall not charge interest on the loans.

ITEM 49. Amend paragraph **4.25(2)“d”** as follows:

*d.* Purchases of small, incidental items such as pencils, pens, rulers and bookmarks provided to members of the public touring the offices of the state or a political subdivision. However, such items distributed on public property shall not expressly advocate the election or defeat of a candidate or the adoption or defeat of a ballot issue as prohibited in Iowa Code ~~Supplement~~ section 68A.505. For example, a bookmark bearing the state seal could be distributed on public property, while a bookmark that identified the donor as a candidate for office could not be distributed on public property.

ITEM 50. Amend rule **351—4.25(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ sections 68A.301, 68A.302, and 68A.303.

ITEM 51. Amend subrule 4.26(2) as follows:

**4.26(2) *Transfer of assets for same candidate.*** A candidate's committee may transfer funds, assets, loans, and debts to a committee established for a different office when the same candidate established both committees. A candidate seeking to transfer funds, assets, loans, or debts under this subrule shall file either an amended statement of organization disclosing information for the new office sought or register a new committee regardless of whether the ~~\$750~~ \$1,000 financial filing threshold for the new office will be exceeded.

ITEM 52. Amend rule **351—4.26(68A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.303.

ITEM 53. Amend rule 351—4.27(68A) as follows:

**351—4.27(68A) Filing of independent expenditure statement.** Pursuant to 2009 Iowa Code ~~Supplement~~ section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3, any person except a candidate, a committee filing a statement of organization, a federal committee, or an out-of-state committee that makes one or more independent expenditures in excess of ~~\$750~~ \$1,000 in the aggregate shall file Form Ind-Exp-O. A sole individual making one or more independent expenditures in excess of ~~\$750~~ \$1,000 in the aggregate shall file Form Ind-Exp-I. A committee that has registered by filing a statement of organization shall disclose an independent expenditure on the appropriate campaign disclosure report.

**4.27(1) *Independent expenditure defined.*** “Independent expenditure” means an expenditure as defined in 2009 Iowa Code ~~Supplement~~ section 68A.404(1) as amended by 2010 Iowa Acts, Senate File 2354, section 3.

**4.27(2) *Independent expenditure reporting.*** When applicable under 2009 Iowa Code ~~Supplement~~ section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3, and this rule 351—4.27(68A), Form Ind-Exp-O shall be filed by a person and Form Ind-Exp-I shall be filed by a sole individual. Both forms shall be in a format that will enable a person or sole individual making an independent expenditure to comply with all of the reporting requirements in 2009 Iowa Code ~~Supplement~~ section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3.

**4.27(3) *Place of filing.*** Form Ind-Exp-O and Form Ind-Exp-I shall be filed with the board electronically via the board's ~~Web site~~ website at www.iowa.gov/ethics ethics.iowa.gov.

**4.27(4) *Time of filing.*** Form Ind-Exp-O or Form Ind-Exp-I shall be filed within 48 hours of the person's or sole individual's making an independent expenditure exceeding ~~\$750~~ \$1,000 in the aggregate or within 48 hours of disseminating the communication to its intended audience, whichever is earlier. An independent expenditure is deemed made at the time that the cost is incurred regardless of whether or not the costs for the independent expenditure have been billed.

**4.27(5)** No change.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

**4.27(6) Attribution statement applicable.** Any person that makes an independent expenditure in any amount shall comply with the appropriate “paid for by” attribution statement pursuant to ~~2009 Iowa Code Supplement section 68A.405 as amended by 2010 Iowa Acts, Senate File 2354, section 4, and by 2010 Iowa Acts, Senate File 2195, section 7, and rule 351—4.38(68A).~~

This rule is intended to implement ~~2009 Iowa Code Supplement section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3.~~

ITEM 54. Amend rule 351—4.28(68A) as follows:

**351—4.28(68A) Prohibition on contributions and independent expenditures by foreign nationals.** ~~As provided in Federal Election Commission regulation 11 CFR 110.20, a foreign national shall not, directly or indirectly, make a monetary or in-kind contribution, or specifically promise to make a contribution, in connection with a state or local campaign or election in Iowa. A foreign national shall not, directly or indirectly, make a contribution to a candidate or to a campaign committee organized under Iowa Code chapter 68A. Pursuant to 2009 Iowa Code Supplement section 68A.404(2) “e” as amended by 2010 Iowa Acts, Senate File 2354, section 3, 68A.404(2) “c,” foreign nationals are prohibited from making independent expenditures in relation to any state or local election in Iowa.~~

**4.28(1) Foreign national defined.** “Foreign national” means a person as defined in ~~2009 Iowa Code Supplement section 68A.404(2) “e” as amended by 2010 Iowa Acts, Senate File 2354, section 3. 68A.404(2) “c.”~~

**4.28(2) and 4.28(3)** No change.

This rule is intended to implement ~~2009 Iowa Code Supplement section 68A.404(2) “e” as amended by 2010 Iowa Acts, Senate File 2354, section 3. 68A.404(2) “c.”~~

ITEM 55. Amend rule ~~351—4.29(68A,68B)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.404.

ITEM 56. Amend subrule 4.30(1) as follows:

**4.30(1) Anonymous contributions in excess of \$10 \$25 prohibited.** No person shall make a contribution in excess of \$10 \$25 to a committee without providing the person’s name and address to the committee. The committee shall not maintain in any campaign account funds in excess of \$10 \$25 that cannot be accounted for and reconciled with the committee’s disclosure reports.

ITEM 57. Amend subrule 4.30(2) as follows:

**4.30(2) Escheat to the state.** Any contribution in excess of \$10 \$25 from an unknown source or campaign funds in excess of \$10 \$25 that cannot be accounted for and reconciled shall escheat to the state of Iowa as required by Iowa Code section 68A.501 ~~as amended by 2007 Iowa Acts, Senate File 39, section 8.~~ A committee required to escheat shall escheat such funds by depositing the funds into the committee’s campaign account and issuing a committee check to the general fund in the same amount. The committee check shall be sent to the board office at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, for transmittal to the office of treasurer of state.

ITEM 58. Amend subrule 4.30(4) as follows:

**4.30(4) Notice at fund-raising event.** Pursuant to Iowa Code ~~Supplement~~ section 68A.501, a person requested to make a contribution at a fund-raising event shall be advised that it is illegal to make a contribution in excess of \$10 \$25 unless the person making the contribution also provides the person’s name and address. Notice of the requirement to provide a person’s name and address for a contribution in excess of \$10 \$25 may be made orally or in a written statement that is displayed at the fund-raising event.

ITEM 59. Amend rule 351—4.31(68A), introductory paragraph, as follows:

**351—4.31(68A) Information required for a trust to avoid a contribution in the name of another person.** A contribution to a committee by a trustee solely in the name of the trust constitutes a contribution in the name of another person as prohibited in Iowa Code ~~Supplement~~ section 68A.502 unless the recipient committee publicly discloses the contribution as provided in this rule.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 60. Amend subrule 4.31(3) as follows:

**4.31(3) Registering a committee.** A trust, except for a living or revocable trust, that raises or spends more than ~~\$750~~ \$1,000 for campaign activities shall register a political committee (PAC) and shall file disclosure reports. A trust, except for a living or revocable trust, that makes a one-time contribution in excess of ~~\$750~~ \$1,000 may file Form DR-OTC in lieu of filing a statement of organization and filing disclosure reports.

ITEM 61. Rescind subrule **4.32(3)**.

ITEM 62. Renumber subrules **4.32(4)** to **4.32(6)** as **4.32(3)** to **4.32(5)**.

ITEM 63. Amend renumbered subrule 4.32(3) as follows:

**4.32(3) Where filed.** Every VSR filed for a contribution in excess of \$50 shall be filed ~~with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319,~~ electronically using the board's Web site at www.iowa.gov/ethics, ~~as an E-mail attachment, or by fax at (515)281-4073~~ website at ethics.iowa.gov.

ITEM 64. Amend renumbered subrule 4.32(4) as follows:

**4.32(4) When filed.** The VSR shall be filed with the board on or before the fifteenth day after the date of the contribution, ~~or mailed bearing a United States Postal Service postmark dated on or before the fifteenth day after the date of the contribution.~~ For purposes of this subrule, "date of the contribution" means the day, month, and year the contribution check is dated. If the board deems it necessary, a copy of any contribution check may be required to be filed with the board. When a copy of a check is required to be filed with the board, the copy shall be filed within ten days after notice by the board.

ITEM 65. Amend renumbered subrule 4.32(5) as follows:

**4.32(5) Enhanced filing.** An out-of-state committee determining that the jurisdiction under which the committee is registered does not have reporting requirements substantially similar to those of Iowa Code Supplement chapter 68A may choose to comply by enhancing the committee's filing in the other jurisdiction. The enhanced filing shall meet the reporting requirements of Iowa Code Supplement chapter 68A for the reporting period during which contributions to Iowa committees are made. The report shall cover a period of at least one month. An out-of-state committee choosing this option shall comply with the VSR procedures in subrule 4.32(2) and ~~attach a signed statement~~ affirm that the report has been enhanced to satisfy the Iowa reporting requirements.

ITEM 66. Amend rule ~~351—4.32(68A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~68A.201(5)~~ 68A.201A.

ITEM 67. Amend rule ~~351—4.33(68A)~~ as follows:

**~~351—4.33(68A) Reporting of earmarked contributions.~~** A political committee or a political party committee is permitted to receive a contribution that is earmarked to be donated to another committee. A political committee or political party committee receiving and transferring an earmarked contribution is required to list on its disclosure report the name of the contributor and the name of the candidate or committee for which the contribution was earmarked. The political committee or political party committee shall notify the recipient committee in writing of the name of the individual contributor and the name of the committee that ~~originally~~ originally received the contribution. The committee ultimately receiving the earmarked contribution shall disclose on its disclosure report both the name of the individual contributor and the name of the committee that originally received and then transferred the earmarked contribution. A ballot issue committee is not permitted to transfer earmarked contributions except to another ballot issue committee.

This rule is intended to implement ~~2009~~ Iowa Code Supplement section 68A.402.

ITEM 68. Amend rule ~~351—4.35(68A)~~ as follows:

**~~351—4.35(68A) Permanent organizations forming temporary political committees; one-time contributor filing Form DR-OTC.~~** Pursuant to Iowa Code section 68A.402(9), a permanent organization temporarily engaging in activity that exceeds the ~~\$750~~ \$1,000 financial filing threshold

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

described in rule 351—4.1(68A,68B) is required to organize and register a political committee (PAC), file disclosure reports, and, upon completion of activity, file a notice of dissolution. A permanent organization that is temporarily a political committee shall comply with all of the campaign laws in Iowa Code chapter 68A and this chapter. A permanent organization that makes loans to a candidate or committee or that is owed debts from a candidate or committee is not deemed to be engaging in political activity requiring registration.

**4.35(1) Form DR-OTC.** A permanent organization that makes a one-time contribution in excess of \$750 \$1,000 to a committee may, in lieu of filing a statement of organization, disclosure reports, and a notice of dissolution, file Form DR-OTC. The following information shall be disclosed on Form DR-OTC:

*a. to f.* No change.

A permanent organization that makes more than one contribution is not eligible to file Form DR-OTC and is required to file a statement of organization, file disclosure reports, and file a notice of dissolution.

**4.35(2) Place of filing.** Form DR-OTC shall be filed ~~with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, filed by fax at (515)281-4073, or filed electronically using the board's Web site website at [www.iowa.gov/ethics](http://www.iowa.gov/ethics) [ethics.iowa.gov](http://ethics.iowa.gov).~~

**4.35(3) Time of filing.** Form DR-OTC shall be filed with the board within ten days after the one-time contribution in excess of \$750 \$1,000 is made. The form ~~must be physically received by the board or, if mailed, must bear a United States Postal Service postmark dated on or before the report due date.~~ A ~~faxed or electronically filed~~ Form DR-OTC must be submitted on or before 11:59 p.m. of the tenth day after the organization of the committee is required. If the tenth day falls on a Saturday, Sunday, or holiday on which the board office is closed, the filing deadline is extended to the next working day when the board office is open.

**4.35(4)** No change.

**4.35(5) Partial refund of contribution.** A committee that receives a contribution from a permanent organization that causes the organization to become subject to the provisions of Iowa Code ~~Supplement~~ chapter 68A may refund all or part of a contribution to the organization so as to reduce the contribution to \$750 \$1,000 or less and remove the organization's filing obligations.

This rule is intended to implement Iowa Code sections 68A.102(18) and 68A.402.

ITEM 69. Amend rule ~~351—4.36(68A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 68A.203 ~~as amended by 2005 Iowa Acts, House File 312, section 5, and 68A.402A.~~

ITEM 70. Amend paragraph **4.37(2)"a"** as follows:

*a.* A ledger or similar record-keeping device which details all contributions received by the committee. This record shall include the name and address of each person making a contribution in excess of \$10 \$25, with the date and amount of the contribution. In lieu of or in addition to a ledger, the committee may record contributions received through a receipt book or other method of individually documenting the contributions, such as by making and keeping copies of the contribution checks.

ITEM 71. Amend rule ~~351—4.37(68A,68B)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ sections 68A.203, 68A.302, 68A.402, and 68A.403 and ~~Iowa Code section 68B.32A.~~

ITEM 72. Amend rule ~~351—4.38(68A)~~, implementation sentence, as follows:

This rule is intended to implement 2009 Iowa Code ~~Supplement~~ section 68A.405 ~~as amended by 2010 Iowa Acts, Senate File 2354, section 4, and by 2010 Iowa Acts, Senate File 2195, section 7.~~

ITEM 73. Amend rule 351—4.39(68A) as follows:

**351—4.39(68A) Specific items exempted from or subject to attribution statement requirement; multiple pages.** 2009 Iowa Code ~~Supplement~~ section 68A.405 ~~as amended by 2010 Iowa Acts, Senate File 2354, section 4, and by 2010 Iowa Acts, Senate File 2195, section 7, and rule 351—4.38(68A)~~

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

require the placement of a “paid for by” attribution statement on published material that expressly advocates for or against a clearly identified candidate or ballot issue, with certain exceptions.

**4.39(1) to 4.39(3)** No change.

This rule is intended to implement 2009 Iowa Code ~~Supplement~~ section 68A.405 as ~~amended by 2010 Iowa Acts, Senate File 2354, section 4, and by 2010 Iowa Acts, Senate File 2195, section 7.~~

ITEM 74. Amend rule 351—4.40(68A,68B) as follows:

**351—4.40(68A,68B) Newspaper or magazine.** For the purposes of these rules and Iowa Code ~~Supplement~~ section 68A.405, “newspaper or magazine” means a regularly scheduled publication of news, articles of opinion, and features available to the general public which does not require membership in or employment by a specific organization.

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.405.

ITEM 75. Amend rule **351—4.41(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section sections~~ 68A.405 and ~~Iowa Code Supplement section 68B.32A(8) as amended by 2006 Iowa Acts, House File 2512, section 3.~~

ITEM 76. Amend rule 351—4.44(68A,68B), introductory paragraph, as follows:

**351—4.44(68A,68B) Prohibited corporate activity.** As provided in 2009 Iowa Code ~~Supplement~~ section 68A.503 as ~~amended by 2010 Iowa Acts, Senate File 2354, section 5,~~ a financial institution, insurance company, or corporation is prohibited from using its resources to make monetary or in-kind campaign contributions to a candidate, candidate’s committee, political committee that expressly advocates for or against a candidate, or a political party committee. For purposes of this chapter, “corporate entity” shall include financial institutions, insurance companies, and corporations.

ITEM 77. Amend paragraph **4.44(2)“f”** as follows:

*f.* Any other transaction conducted between a corporate entity and a candidate, candidate’s committee, political committee that expressly advocates for or against candidates, or a political party committee. Such transaction is presumed to be a corporate contribution unless it is sufficiently demonstrated to the board that the transaction should not be considered a prohibited contribution under 2009 Iowa Code ~~Supplement~~ section 68A.503 as ~~amended by 2010 Iowa Acts, Senate File 2354, section 5.~~

ITEM 78. Amend rule **351—4.44(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement 2009 Iowa Code ~~Supplement~~ section 68A.503 as ~~amended by 2010 Iowa Acts, Senate File 2354, section 5.~~

ITEM 79. Amend rule 351—4.45(68A,68B) as follows:

**351—4.45(68A,68B) Corporate-sponsored political committee.** These rules do not prevent a corporate entity from soliciting eligible members to join or contribute to its own corporate-sponsored political committee (PAC), so long as the corporate entity adheres to the provisions of Iowa Code ~~Supplement~~ section 68A.503.

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.503.

ITEM 80. Amend rule 351—4.47(68A,68B), introductory paragraph, as follows:

**351—4.47(68A,68B) Permitted activity—reimbursement required.** The prohibitions against certain transactions between corporate entities and candidates or committees expressly advocating the election or defeat of candidates contained in Iowa Code ~~Supplement~~ section 68A.503 and in rule 351—4.44(68A,68B) are not construed to prohibit activity that occurs consistent with this rule.

ITEM 81. Amend rule **351—4.47(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.503.



## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 82. Amend rule 351—4.48(68A) as follows:

~~351—4.48(68A) Sham newspapers subject to campaign laws. Iowa Code chapter 68A provides that when a media organization discusses candidates and public affairs, the media organization does not trigger the campaign laws. 2009 Iowa Code Supplement section 68A.503(5) “b” as amended by 2010 Iowa Acts, Senate File 2354, section 5, directs the board to adopt a rule requiring the~~ The owner, publisher, or editor of a sham newspaper who is using the sham newspaper to promote in any way the candidacy of any person for public office ~~to~~ must comply with the requirements of Iowa Code chapter 68A.

**4.48(1)** No change.

**4.48(2) Definitions.** For purposes of this rule, the following definitions apply:

“*Express advocacy*” means “express advocacy” as defined in Iowa Code section 68A.102(14) and rule 351—4.53(68A).

“*Media organization*” means “media organization” as defined in rule 351—4.51(68A).

“*Sham newspaper*” means “sham newspaper” as defined in ~~2009 Iowa Code Supplement section 68A.503(5) “b” as amended by 2010 Iowa Acts, Senate File 2354, section 5.~~ 68A.503(5) “b.”

This rule is intended to implement ~~2009 Iowa Code Supplement section 68A.503(5) “b” as amended by 2010 Iowa Acts, Senate File 2354, section 5.~~ 68A.503(5) “b.”

ITEM 83. Amend rule ~~351—4.49(68A,68B)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.503.

ITEM 84. Amend rule 351—4.51(68A) as follows:

~~351—4.51(68A) Candidate debate—media organization; debate structure; debate funding; contribution reporting inapplicable.~~ Iowa Code ~~Supplement~~ section 68A.503 prohibits corporations from making contributions to state or local candidates in Iowa. This prohibition does not apply to incorporated media organizations that host candidate debates described in this rule.

**4.51(1) to 4.51(3)** No change.

**4.51(4) Contribution reporting inapplicable.** The costs of a debate under this rule are not a reportable monetary or in-kind contribution under Iowa Code ~~Supplement~~ section 68A.402.

This rule is intended to implement Iowa Code ~~Supplement~~ sections 68A.402 and 68A.503.

ITEM 85. Amend subrule 4.52(1) as follows:

**4.52(1) Corporate payroll deductions.** For purposes of interpretation of Iowa Code ~~Supplement~~ section 68A.503, the administrative functions performed by a corporation (profit or nonprofit corporation including, but not limited to, a bank, savings and loan institution, credit union or insurance company) to make payroll deductions for an employee organization’s political committee and to transmit the deductions in lump sum to the treasurer of the political committee shall not be a prohibited corporate activity so long as the corporate entity is serving only as a conduit for the contributions.

ITEM 86. Amend subrule 4.52(3) as follows:

**4.52(3) Allowable costs of administration.** For the purposes of interpreting Iowa Code ~~Supplement~~ ~~section 68A.503, subsection 3~~ section 68A.503(3), which permits an entity otherwise forbidden from contributing to a candidate or a candidate’s committee for “financing the administration of a political committee sponsored by that entity,” the following are considered to be allowable costs of administration:

*a. to f.* No change.

An item which is excluded by this subrule from being an allowable cost of administration may still be provided by the committee, so long as that cost is paid for from contributions or other sources of funds other than the parent entity.

ITEM 87. Amend rule ~~351—4.52(68A,68B)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68A.503.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 88. Amend rule 351—4.53(68A,68B) as follows:

**351—4.53(68A,68B) Express advocacy; in-kind contributions; independent expenditures—definitions.** For the purposes of Iowa Code Supplement chapter 68A, the following definitions apply.

**4.53(1) Express advocacy.** “Express advocacy” means any communication as defined in Iowa Code Supplement section 68A.102(14). “Express advocacy” includes a communication that uses any word, term, phrase, or symbol that exhorts an individual to vote for or against a clearly identified candidate or for the passage or defeat of a clearly identified ballot issue.

**4.53(2)** No change.

**4.53(3) Independent expenditure.** “Independent expenditure” means “independent expenditure” as defined in 2009 Iowa Code Supplement section 68A.404(1) as amended by 2010 Iowa Acts, Senate File 2354, section 3.

**4.53(4) Coordinated expenditure.**

a. and b. No change.

c. Pursuant to 2009 Iowa Code Supplement section 68A.404(7) as amended by 2010 Iowa Acts, Senate File 2354, section 3, a person making an independent expenditure shall not engage or retain an advertising firm or consultant that has also been engaged or retained within the prior six months by the candidate, candidate’s committee, or ballot issue PAC that is benefited by the independent expenditure. “Engage or retain” shall not include the purchase of goods or products from an advertising firm or consultant when the advertising firm or consultant does not provide guidance, assistance, or advice to the person making the purchase concerning the good or product.

This rule is intended to implement 2009 Iowa Code Supplement section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3.

ITEM 89. Amend rule 351—4.55(68A) as follows:

**351—4.55(68A) Statement of dissolution; final report; final bank statement.**

**4.55(1) Statement of dissolution.** A statement of dissolution (Form DR-3) shall be filed after the committee terminates its activity, disposes of its funds and assets, and has discharged all of its loans and debts. The statement shall be either typewritten or printed legibly in black ink and shall be signed by the person filing the statement. A statement of dissolution filed electronically using the board’s Web site is deemed signed when filed.

**4.55(2) Place of filing.** Statements of dissolution mandated by statute to be filed electronically with the board shall be filed through the board’s Web site [website at www.iowagov/ethics](http://www.iowagov/ethics) [ethics.iowa.gov](http://ethics.iowa.gov). A statement of dissolution not mandated by statute to be filed electronically may be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319; by fax at (515)281-4073; or as an E-mail attachment.

**4.55(3) Time of filing.** A committee seeking dissolution shall file a statement of dissolution within 30 days of terminating activity, disposing of funds and assets, and discharging all loans and debts. A statement must be physically received by the board or, if mailed, must bear a United States Postal Service postmark dated on or before the required due date. Faxed or electronically filed statements must be submitted at or before 11:59 p.m. on the required due date. If the due date falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date is extended to the next working day.

**4.55(4) and 4.55(5)** No change.

This rule is intended to implement Iowa Code section 68A.402B as amended by 2010 Iowa Acts, Senate File 2354, section 2.

ITEM 90. Amend rule **351—4.61(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section 68B.32A(8).

ITEM 91. Amend rule **351—4.62(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement sections 68A.503 and section 68B.32A(8).

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 92. Amend rule 351—5.8(68A) as follows:

**351—5.8(68A) Holders of certain government positions prohibited from engaging in political activities.** Several statutes outside of the board's jurisdiction prohibit the holders of certain government positions from being engaged in political activities. The board does not enforce these statutory prohibitions. However, to assist the regulated community and the public, the board will maintain on its ~~Web site~~ website at <http://www.state.ia.us/ethics/index.htm> [ethics.iowa.gov](http://ethics.iowa.gov) a list of positions whose holders are prohibited from engaging in political activities.

This rule is intended to implement Iowa Code section 68A.505.

ITEM 93. Amend rule 351—6.10(68B) as follows:

**351—6.10(68B) Prohibition on sales; when public bids required—disclosure of income.** Pursuant to Iowa Code section 68B.3 as amended by 2010 Iowa Acts, Senate File 2067, sections 2 and 3, an official or employee shall not sell, in any one occurrence, goods or services having a value in excess of \$2,000 to a state agency unless the sale is made pursuant to an award or contract let after public notice and competitive bidding and the official or employee making the sale files Form Public Bid with the board within 20 days of making the sale. This prohibition includes sales to the state agency in which the official or employee serves or is employed.

**6.10(1) Exceptions.** The prohibition in Iowa Code section 68B.3 and this rule shall not apply to any of the following:

- a. Sales of goods or services done as part of the official's or employee's state duties.
- b. Sales of goods or services by a member of a board or commission to state executive branch agencies or subunits of departments or independent agencies that are not the subunit of the department or independent agency in which the person serves or are not a subunit of a department or independent agency with which the person has substantial and regular contact as part of the person's duties. "Board" and "commission" as used in this rule mean the same as defined in Iowa Code section 7E.4.
- ~~b. c.~~ The publication of resolutions, advertisements, or other legal propositions or notices in newspapers designated by law for the publication of such materials and for which publication rates are fixed by law.
- e. d. Instruction at an accredited educational institution if the official or employee meets the minimum education and licensing requirements established for other instructors at the educational institution.
- e. A contract for professional services that is exempt from competitive bidding requirements under any provision in the Iowa Code or Iowa Administrative Code.

**6.10(2) Sales to political subdivisions.** An official who sells goods or services to a political subdivision of the state shall disclose on the official's Form PFD as provided in 351—Chapter 7 if income was received from the sale.

**6.10(3) Filing of report.** An official or employee making a sale to a state agency pursuant to Iowa Code section 68B.3 as amended by 2010 Iowa Acts, Senate File 2067, sections 2 and 3, shall file Form Public Bid within 20 days of making the sale. The form shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319; by fax at (515)281-4073; or as an ~~E-mail~~ email attachment. The failure to timely file Form Public Bid with the board within 20 days of making the sale may subject the official or employee to board sanctions under Iowa Code chapter 68B and rule 351—9.4(68B).

This rule is intended to implement Iowa Code section 68B.3 as amended by 2010 Iowa Acts, Senate File 2067, sections 2 and 3.

ITEM 94. Amend rule 351—8.3(68B) as follows:

**351—8.3(68B) Individuals not considered executive branch lobbyists.** The following individuals are not considered to be executive branch lobbyists:

- 1. to 6. No change.
- 7. An individual who is a member, director, trustee, officer, or committee member of a business, trade, labor, farm, professional, religious, education, or charitable association, foundation, or

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

organization ~~and~~ who is not paid compensation ~~or~~ and is not specifically designated as an executive branch lobbyist.

8. to 12. No change.

Individuals who are uncertain as to whether or not they are considered executive branch lobbyists should contact the board for guidance prior to engaging in any executive branch lobbying.

This rule is intended to implement Iowa Code section 68B.2(13).

ITEM 95. Amend rule 351—8.7(68B) as follows:

**351—8.7(68B) Lobbyist registration required.**

**8.7(1)** to **8.7(3)** No change.

**8.7(4) Failure to timely file registration.** An individual who fails to file an executive branch lobbyist registration statement before engaging in executive branch lobbying activities in violation of 2011 Iowa Code ~~Supplement~~ section 68B.36 may be subject to sanctions by the board as permitted under Iowa Code chapter 68B or rule 351—9.4(68B).

This rule is intended to implement 2011 Iowa Code ~~Supplement~~ section 68B.36.

ITEM 96. Amend rule **351—8.9(68B)**, implementation sentence, as follows:

This rule is intended to implement 2011 Iowa Code ~~Supplement~~ section 68B.38.

ITEM 97. Amend rule 351—8.10(68B) as follows:

**351—8.10(68B) Session function registrations and reports.** Pursuant to Iowa Code section ~~68B.22(4) “s” as amended by 2010 Iowa Acts, House File 2109, section 1,~~ 68B.22(4) “s,” a sponsor of a qualified function is required to file with the general assembly and the board a registration notice prior to the function and a report within 28 days of the function. The board will deem filings with the general assembly as acceptable filings with the board. The board will establish links on its ~~Web site~~ website to the general assembly’s ~~Web site~~ website where the registration notices and reports are posted. The failure of a sponsor to timely file either a registration notice or a report may subject the sponsor to sanctions by the board as permitted under Iowa Code chapter 68B and rule 351—9.4(68B) separate from any sanctions imposed by the general assembly.

This rule is intended to implement Iowa Code ~~section~~ sections 68B.22(4) “s” as amended by 2010 Iowa Acts, House File 2109, section 1, and Iowa Code ~~section~~ 68B.32A(5) as amended by 2010 Iowa Acts, Senate File 2067, section 4.

ITEM 98. Amend rule **351—8.11(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 68B.32A(5) as amended by 2010 Iowa Acts, Senate File 2067, section 4, and Iowa Code ~~section~~ 68B.32A(9).

ITEM 99. Amend rule **351—8.12(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 68B.32A(5) as amended by 2010 Iowa Acts, Senate File 2067, section 4, and Iowa Code ~~section~~ 68B.32A(9).

ITEM 100. Amend rule **351—8.13(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 68B.32A(5)<sub>2</sub> as amended by 2010 Iowa Acts, Senate File 2067, section 4, and Iowa Code ~~sections~~ 68B.32A(9)<sub>2</sub> and 68B.33.

ITEM 101. Amend rule 351—15.1(17A) as follows:

**351—15.1(17A) Definition.** For purposes of this chapter, a “waiver” ~~or “variance”~~ means action by the board that suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified individual, business, organization or person on the basis of the particular circumstances of that individual, business, organization or person. ~~For simplicity, the term “waiver” shall include both a waiver and a variance and the~~ The term “person” shall include any individual or entity subject to the board’s jurisdiction.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 102. Amend rule 351—15.12(17A) as follows:

**351—15.12(17A) Summary reports Reports.** The board shall ~~semiannually prepare a summary~~ submit a report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule and a citation to the statutory provisions implemented by the rules. The report shall include a general summary of the reasons justifying the board's actions on waiver requests and, if practicable, shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. ~~Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~ This report shall be submitted electronically to the administrative rules coordinator and the administrative rules review committee within 60 days of a waiver being granted or denied.

ITEM 103. Amend **351—Chapter 15**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A and, 68A, and 68B and Iowa Code Supplement chapter 68A.

[Filed 2/25/21, effective 4/28/21]

[Published 3/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.

**ARC 5526C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

**Rule making related to school dental screenings**

The Public Health Department hereby amends Chapter 51, "Dental Screening," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapter 135.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 135.17.

*Purpose and Summary*

Chapter 51 provides the rules for the school dental screening requirement, which aims to improve the oral health of Iowa's children. Based on feedback from a recent quality improvement exercise (as a result of recommendations provided by the legislatively mandated Student Health Working Group), the Bureau of Oral and Health Delivery Systems (OHDS) has developed a template for the new certificate of dental screening. The new certificate eliminates some of the currently collected demographic information, which will reduce the administrative burden on parents, providers, and school staff. The amendments implement this change.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5270C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board of Health on January 13, 2021.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*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 28, 2021.

The following rule-making action is adopted:

Amend rule 641—51.9(135) as follows:

**641—51.9(135) Dental screening documentation.**

**51.9(1) Student information.** A person authorized to perform a dental screening required by this chapter shall record the following student information or ensure that such information is recorded on the certificate of dental screening provided or approved in writing by the department of public health in cooperation with the department of education:

1. a. Name (first and last); and
2. b. Birth date;
3. ~~Parent or guardian name;~~
4. ~~Telephone numbers (home or mobile);~~
5. ~~Address (street, city, and county);~~
6. ~~School;~~
7. ~~Grade level; and~~
8. ~~Gender.~~

**51.9(2) Screening information.** A person authorized to perform a dental screening required by this chapter shall record the following screening information on the certificate of dental screening provided or approved in writing by the department of public health in cooperation with the department of education:

1. a. Date of dental screening;
2. b. Treatment needs (no obvious problems, requires dental care, requires urgent dental care);
3. c. Provider type;
4. d. Provider name, ~~business address,~~ and telephone number; and
5. e. Provider or recorder signature and credentials.

[Filed 2/26/21, effective 4/28/21]

[Published 3/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.

**ARC 5528C****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed****Rule making related to waivers**

The Public Health Department hereby amends Chapter 69, “Renovation, Remodeling, and Repainting—Lead Hazard Notification Process,” Chapter 131, “Emergency Medical Services—Providers—Initial Certification—Renewal and Reactivation—Authority—Complaints and Investigations,” Chapter 132, “Emergency Medical Services—Service Program Authorization,” Chapter 134, “Trauma Care Facility Categorization and Verification,” Chapter 135, “Trauma Triage and Transfer Protocols,” Chapter 136, “Trauma Registry,” Chapter 139, “Emergency Medical Services—Training Programs—Students—Complaints and Investigations,” Chapter 144, “Emergency Medical Services—Air Medical Service Program Authorization,” Chapter 150, “Iowa Regionalized System of Perinatal Health Care,” and Chapter 173, “Contested Cases,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapters 17A, 135 and 147A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 135 and 147A and chapter 17A as amended by 2020 Iowa Acts, House File 2389.

*Purpose and Summary*

The amendments are required pursuant to 2020 Iowa Acts, House File 2389. The amendments eliminate the term “variance” and replace it with the term “waiver” where appropriate in the Department’s administrative rules.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5271C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board of Health on January 13, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

PUBLIC HEALTH DEPARTMENT[641](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 28, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—69.15(135) as follows:

**641—69.15(135) Waivers.** Rules in this chapter are not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 2. Amend paragraph **131.5(2)“d”** as follows:

*d.* The department may grant a variance waiver for changes to the scope of practice that have not yet been adopted by reference in these rules pursuant to 641—Chapter 178.

ITEM 3. Amend subrule 131.7(1) as follows:

**131.7(1)** This rule is not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 4. Amend subrule 131.10(1) as follows:

**131.10(1)** This rule is not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 5. Amend rule 641—132.4(147A) as follows:

**641—132.4(147A) Variances Waivers.** If during a period of authorization, a service program is unable to maintain compliance with Iowa Code chapter 147A and these rules, the department may grant a variance waiver.

**132.4(1) Variances to Waivers** of these rules may be granted by the department to a currently authorized service program.

**132.4(2)** Requests for variances waivers shall apply only to the service program requesting the variance waiver and shall apply only to those requirements and standards for which the department is responsible.

**132.4(3)** A service program shall apply for a variance waiver in accordance with 641—Chapter 178.

ITEM 6. Amend subrule 132.5(16) as follows:

**132.5(16)** This rule is not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 7. Amend paragraph **134.2(7)“m”** as follows:

*m.* The director, pursuant to 641—Chapter 178, may grant a variance waiver from the requirements of rules adopted under this chapter for any trauma care facility.

ITEM 8. Amend paragraph **135.2(1)“d”** as follows:

*d.* The director, pursuant to rule, may grant a variance waiver from the requirements of rules adopted under this chapter for any hospital, emergency care facility, or service program provided that the variance waiver is related to undue hardships in complying with this chapter or the rules adopted pursuant to this chapter.



PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 9. Amend paragraph **136.2(6)“c”** as follows:

c. The director, pursuant to 641—Chapter 178, may grant a variance waiver from the requirements of rules adopted under this chapter for a trauma care facility that meets the requirements of this chapter.

ITEM 10. Amend rule **641—139.4(147A)**, catchwords, as follows:

**641—139.4(147A) Training program standards, student requirements and variances waivers.**

ITEM 11. Amend rule 641—139.7(147A) as follows:

**641—139.7(147A) Temporary variances waivers.** If during a period of authorization there is some occurrence that temporarily causes a training program to be in noncompliance with these rules, the department may grant a temporary variance waiver.

**139.7(1)** ~~Variances to~~ Waivers of these rules may be granted by the department to a currently authorized training program.

**139.7(2)** Requests for variances waivers shall apply only to the training program requesting the variance waiver and shall apply only to those requirements and standards for which the department is responsible.

**139.7(3)** A training program shall apply for a variance waiver in accordance with 641—Chapter 178.

ITEM 12. Amend subrule 139.9(1) as follows:

**139.9(1)** This rule is not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 13. Amend paragraph **144.3(4)“b”** as follows:

b. The service shall meet applicable requirements of these rules but may apply for a variance waiver using the criteria outlined in rule 641—144.7(147A).

ITEM 14. Amend subrule 144.4(10) as follows:

**144.4(10)** Implementation. The director may grant ~~exceptions and variances waivers~~ from the requirements of this chapter for any air medical service. ~~Exceptions or variations~~ Waivers shall be reasonably related to undue hardships which existing services experience in complying with this chapter. Services requesting ~~exceptions and variances waivers~~ shall be subject to other applicable rules adopted pursuant to Iowa Code chapter 147A. Nothing in this chapter shall be construed to require any service to provide a level of care beyond minimum basic care standards.

ITEM 15. Amend subrule 144.6(17) as follows:

**144.6(17)** This rule is not subject to waiver ~~or variance~~ pursuant to 641—Chapter 178 or any other provision of law.

ITEM 16. Amend rule 641—144.7(147A) as follows:

**641—144.7(147A) Temporary variances waivers.**

**144.7(1)** If during a period of authorization there is some occurrence that temporarily causes a service program to be in noncompliance with these rules, the department may grant a temporary variance waiver. Temporary variances waivers from these rules (not to exceed six months in length per any approved request) may be granted by the department to a currently authorized service program. Requests for temporary variances waivers shall apply only to the service program requesting the variance temporary waiver and shall apply only to those requirements and standards for which the department is responsible.

**144.7(2)** To request a variance waiver, the service program shall:

a. Notify the department verbally (as soon as possible) of the need to request a temporary variance waiver. Submit to the department, within ten days after having given verbal notification to the department, a written explanation for the temporary variance waiver request. The address and telephone number are Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075; (515)725-0326.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- b. Cite the rule from which the variance temporary waiver is requested.
- c. State why compliance with the rule cannot be maintained.
- d. Explain the alternative arrangements that have been or will be made regarding the variance temporary waiver request.

e. Estimate the period of time for which the variance temporary waiver will be needed.

**144.7(3)** Upon notification of a request for variance a temporary waiver, the department shall consider, but shall not be limited to the following:

- a. Examining the rule from which the temporary variance waiver is requested to determine if the request is appropriate and reasonable.

- b. Evaluating the alternative arrangements that have been or will be made regarding the variance temporary waiver request.

- c. Examining the effect of the requested variance temporary waiver upon the level of care provided to the general populace served.

- d. Requesting additional information if necessary.

**144.7(4)** Preliminary approval or denial shall be provided verbally within 24 hours. Final approval or denial shall be issued in writing within ten days after department receipt of the written explanation for the temporary variance waiver request and shall include the reason for approval or denial. If approval is granted, the effective date and the duration of the temporary variance waiver shall be clearly stated.

**144.7(5)** Any request for appeal concerning the denial of a request for temporary variance waiver shall be in accordance with the procedures outlined in rule 641—144.6(147A).

ITEM 17. Amend subrule 150.6(4) as follows:

**150.6(4)** *Level designation maintenance, variance waiver and confidential records.*

- a. A hospital which is unable to maintain its designated level of care shall notify the department, in writing, within 60 days of the change in capacity to meet the designated level of care.

- b. The director may grant a variance waiver from the requirements of rules adopted under this chapter for any hospital participating in the regionalized system of perinatal health care.

- c. Proceedings, records, and reports developed pursuant to this chapter are confidential pursuant to Iowa Code section 135.11(27) and constitute peer review records under Iowa Code section 147.135, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the affected hospital, and are not admissible in evidence in a judicial or administrative proceeding other than a proceeding involving verification of the participating hospital.

ITEM 18. Amend subrule 173.16(1) as follows:

**173.16(1)** Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be scheduled not less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by the presiding officer to all parties. For good cause the presiding officer may permit variances waivers from this rule.

[Filed 2/26/21, effective 4/28/21]

[Published 3/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.

**ARC 5527C**

**PUBLIC SAFETY DEPARTMENT[661]**

**Adopted and Filed**

**Rule making related to the fire safe cigarette certification program**

The State Fire Marshal Division hereby amends Chapter 61, "Reduced Ignition Propensity Cigarettes," Iowa Administrative Code.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 101B.3.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 101B.

*Purpose and Summary*

These amendments to Chapter 61 update the process for submittal for certification and recertification and provide updated contact information for the program.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 30, 2020, as **ARC 5339C**. A public hearing was held on January 8, 2021. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Division on February 23, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on April 28, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **661—Chapter 61**, title, as follows:  
REDUCED IGNITION PROPENSITY CIGARETTES FIRE SAFE CIGARETTE CERTIFICATION PROGRAM

PUBLIC SAFETY DEPARTMENT[661](cont'd)

- ITEM 2. Rescind rule **661—61.2(101B)**.
- ITEM 3. Renumber rule **661—61.1(101B)** as **661—61.2(101B)**.
- ITEM 4. Adopt the following new rule 661—61.1(101B):

**661—61.1(101B) Certification program established.** A fire safe cigarette certification program is hereby established in the state fire marshal division. The program shall issue certifications as provided in this chapter.

**61.1(1)** The fire safe cigarette certification program is located at the following address:

State Fire Marshal Division  
Attn: SFM Licensing Administration  
215 East 7th Street  
Des Moines, Iowa 50319

**61.1(2)** The program may be contacted by electronic mail at [sfmlicense@dps.state.ia.us](mailto:sfmlicense@dps.state.ia.us) or by the United States Postal Service.

NOTE: The website for the fire safe cigarette certification program is [dps.iowa.gov/divisions/state-fire-marshal/fire-safe-cigarettes](http://dps.iowa.gov/divisions/state-fire-marshal/fire-safe-cigarettes).

- ITEM 5. Amend renumbered rule 661—61.2(101B) as follows:

**661—61.2(101B) Definitions.** The following definitions apply to rules 661—61.1(101B) through 661—61.21(101B):

“*Agent*” means a distributor as defined in Iowa Code section 453A.1 authorized by the department of revenue to purchase and affix stamps pursuant to Iowa Code section 453A.10.

“*Certified reduced ignition propensity fire safe cigarette*” means a unique cigarette brand style that meets the following criteria:

1. The unique cigarette brand style has been tested in accordance with the test method prescribed in rule 661—61.3(101B) or has been approved pursuant to rule 661—61.4(101B).
2. The unique cigarette brand style meets the performance standard specified in rule 661—61.3(101B) or has been approved pursuant to rule 661—61.4(101B).
3. A written certification for the unique cigarette brand style has been filed by the manufacturer with the department and in accordance with rule 661—61.10(101B).
4. Packaging for the unique cigarette brand style has been marked in accordance with rule 661—61.13(101B).

“*Cigarette*” means a cigarette as defined in Iowa Code section 453A.1, but shall not mean a tobacco product as defined in Iowa Code section 453A.1.

“*Department*” means the department of public safety.

“*Fire safe cigarette*” means a cigarette certified pursuant to this chapter.

“*Manufacturer*” means any of the following:

1. An entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced, anywhere, which cigarettes the manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer.
2. The first purchaser of cigarettes anywhere, that intends to resell in the United States, cigarettes manufactured or produced anywhere, that the original manufacturer did not intend to be sold in the United States.
3. An entity that becomes a successor of an entity described in numbered paragraph “1” or “2” of this definition.

“*Quality control and quality assurance program*” means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the repeatability testing, and which program ensures that the testing repeatability remains within the required repeatability values specified in rule 661—61.3(101B).

“*Reduced ignition propensity cigarette*” means a cigarette certified pursuant to this chapter.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

“*Repeatability*” means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95 percent of the time.

“*Retailer*” means retailer as defined in Iowa Code section 453A.1.

“*Sale*” means any transfer of title or possession, exchange or barter, in any manner or by any means or any agreement. In addition to cash and credit sales, the giving of cigarettes as a sample, prize, or gift or the exchanging of cigarettes for any consideration other than money is considered a sale.

“*Sell*” means to sell, or to offer or agree to sell.

“*Unique cigarette brand style*” means a cigarette with a unique combination of the following:

1. to 7. No change.

“*Wholesaler*” means wholesaler as defined in Iowa Code section 453A.1.

ITEM 6. Amend subrule 61.4(2) as follows:

**61.4(2)** A manufacturer proposing an alternate test method and performance standard pursuant to this rule shall submit such proposal on a form provided by the department and shall send such form by certified mail, return receipt requested, to at the following address: specified in subrule 61.1(1).

~~Fire Marshal Division  
State Public Safety Headquarters Building  
215 East 7th Street  
Des Moines, Iowa 50319~~

ITEM 7. Amend rule 661—61.6(101B) as follows:

**661—61.6(101B) Retention of reports of testing.** A manufacturer shall maintain for a period of three years copies of the reports of all tests conducted on all certified ~~reduced ignition propensity~~ fire safe cigarettes offered for sale and shall make copies of the reports available to the department and the office of the attorney general upon written request.

ITEM 8. Amend rules 661—61.10(101B) and 661—61.11(101B) as follows:

**661—61.10(101B) Certification and fee.**

**61.10(1)** Each manufacturer shall submit a written certification to the department attesting to all of the following:

*a.* Each certified ~~reduced ignition propensity~~ fire safe cigarette listed in the certification has been tested in accordance with rule 661—61.3(101B), 661—61.4(101B), or 661—61.5(101B).

*b.* Each certified ~~reduced ignition propensity~~ fire safe cigarette listed in the certification meets the performance standard specified in rule 661—61.3(101B) or approved under rule 661—61.4(101B).

**61.10(2)** Each certified ~~reduced ignition propensity~~ fire safe cigarette listed in the certification shall be described in the certification as follows:

*a.* The brand or trade name on the package.

*b.* The style of cigarette, such as light or ultra light.

*c.* The length of the cigarette in millimeters.

*d.* The circumference of the cigarette in millimeters.

*e.* The flavor of the cigarette, such as menthol or chocolate, if applicable.

*f.* Whether the cigarette is filtered or nonfiltered.

*g.* The type of cigarette package, such as soft pack or box.

*h.* The marking approved in accordance with Iowa Code ~~Supplement~~ section 101B.7.

*i.* The name, address, and telephone number of the laboratory, if different than the manufacturer, that conducted the test.

*j.* The date the testing was performed.

**61.10(3)** and **61.10(4)** No change.

**61.10(5)** For each cigarette listed in a certification, a manufacturer shall pay, electronically or by mail, a fee of \$100 to the department. Checks shall be made payable to the “Iowa Department of Public Safety.” ~~The memo portion of the check shall state “Reduced ignition propensity cigarettes.”~~

PUBLIC SAFETY DEPARTMENT[661](cont'd)

**61.10(6)** A certification and fee submitted pursuant to this rule shall be ~~sent~~ submitted online as indicated on the state fire marshal's website or mailed to the following address: address specified in subrule 61.1(1).

~~Fire Marshal Division  
State Public Safety Headquarters Building  
215 East 7th Street  
Des Moines, Iowa 50319~~

An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

**661—61.11(101B) Changes to the manufacture of a certified ~~reduced ignition propensity~~ fire safe cigarette.** If a manufacturer produces a cigarette certified pursuant to this chapter and makes any change to the certified ~~reduced ignition propensity~~ fire safe cigarette thereafter that is likely to alter the ~~cigarette's~~ cigarette's compliance with the ~~reduced cigarette ignition propensity~~ standards specified in this chapter, prior to the ~~cigarette's~~ cigarette's being sold or offered for sale in this state, the manufacturer shall retest the cigarette in accordance with the testing standards specified in rule 661—61.3(101B) or shall propose an alternate test method and performance standard pursuant to rule 661—61.4(101B) or rule 661—61.5(101B), and shall maintain records of the retesting as required by rule 661—61.6(101B). Any altered cigarette that does not meet the performance standard specified in rule 661—61.3(101B) or approved pursuant to rule 661—61.4(101B) shall not be sold in this state.

ITEM 9. Amend rule 661—61.13(101B), catchwords, as follows:

**661—61.13(101B) Marking ~~reduced ignition propensity~~ fire safe cigarette packaging.**

[Filed 2/23/21, effective 4/28/21]

[Published 3/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.

**ARC 5532C**

## **REVENUE DEPARTMENT[701]**

**Adopted and Filed**

**Rule making related to powers of attorney**

The Revenue Department hereby amends Chapter 5, "Public Records and Fair Information Practices," and Chapter 7, "Practice and Procedure Before the Department of Revenue," Iowa Administrative Code.

### *Legal Authority for Rule Making*

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

### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 421.59, 422.20 and 422.72.

### *Purpose and Summary*

Through 2020 Iowa Acts, House File 2641, the Legislature created Iowa Code section 421.59, which describes the various methods a taxpayer may use to appoint powers of attorney to work with the Department of Revenue. Prior to the creation of this Iowa Code section, authorized representation was almost exclusively covered only in rule. The new law mandates that the Department adopt rules to administer Iowa Code section 421.59. These amendments update existing rules to reflect the new law, clarify areas of confusion, and modify current procedures to improve administration. The

## REVENUE DEPARTMENT[701](cont'd)

Department's current rules on powers of attorney are in rules 701—7.6(17A) and 701—7.34(421). New rule 701—7.6(17A,22,421,422) in Item 3 combines and revises the content of the current rules to make it easier to find pertinent information.

The new rule defines the powers that a representative under a power of attorney may utilize, the method a taxpayer may use to file a power of attorney, who may authorize a power of attorney on behalf of a taxpayer, and the process by which a power of attorney may be revoked. Additionally, this rule making outlines those individuals who have authority to act on behalf of a taxpayer, other than via the Department's power of attorney form, as well as the method and documentation required to be filed to show authority. Item 4 rescinds rule 701—7.34(421), whose content has been integrated into the rule in Item 3.

Section 17 of 2019 Iowa Acts, House File 779, amended Iowa Code sections 422.20 and 422.72 to allow for disclosure of confidential taxpayer information as authorized by the taxpayer and gave the Department permissive authority to establish procedures for authorizing disclosure by rule. New rule 701—5.7(17A,22,421,422) in Item 1 defines the powers that a designee authorized by a tax information disclosure designation form may utilize, the method a taxpayer may use to file a tax information disclosure designation, who may authorize a tax information disclosure designation on behalf of a taxpayer, and the process by which a tax information disclosure designation may be revoked. Item 2 rescinds rule 701—5.11(17A,22), whose content has been integrated into the rule in Item 1. Because the Legislature instructed the Department to establish appropriate procedures by rule, this rule making will replace Agency Procedures for Fair Information Practices uniform rule X.7(17A,22), Consent to disclosure by the subject of a confidential record, as well as rule 701—5.11(17A,22), Consensual disclosure of confidential records. Both the uniform rule and the current Department rule cover the release of confidential information with taxpayer authorization. Through the consolidation of these concepts, taxpayers will have one rule to look to for guidance without losing the protections outlined in Agency Procedures for Fair Information Practices uniform rule X.7(17A,22), Consent to disclosure by the subject of a confidential record, and rule 701—5.11(17A,22).

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 27, 2021, as **ARC 5398C**. 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 March 3, 2021.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

REVENUE DEPARTMENT[701](cont'd)

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

*Effective Date*

This rule making will become effective on April 28, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** rule 701—5.7(17A,22,421,422):

**701—5.7(17A,22,421,422) Tax information disclosure designation.**

**5.7(1) Powers authorized.** A taxpayer may designate an individual to receive, inspect, and discuss confidential state tax information from the department about the taxpayer. Such designation does not authorize the designee to act or authorize any action on the taxpayer's behalf in any way other than to receive information and communicate with the department. For transfers of decision-making authority, see Iowa Code section 421.59 and rule 701—7.6(17A).

**5.7(2) Contents of the tax information disclosure designation form.** A taxpayer must use the department's tax information disclosure designation form, or other method authorized by the department, to designate an individual to receive, inspect, and discuss confidential state tax information. A tax information disclosure designation form must contain the following information to be valid:

- a. Legal name and address of the taxpayer;
- b. Identification number of the taxpayer (i.e., social security number (SSN), federal identification number (FEIN), or any federal- or Iowa-issued tax identification number);
- c. Name, mailing address, and preparer's tax identification number (PTIN), FEIN, SSN, individual taxpayer identification number (ITIN), Iowa department of revenue-issued account number (IAN) of the representative, or an indication that an IAN is being requested;
- d. Description of the matter(s) for which disclosure is authorized, which may include:
  - (1) The type of tax(es) involved or an indication that all tax types are within the scope of disclosure;
  - (2) The specific year(s) or period(s) involved; or an indication that the scope is unlimited (not to exceed three years into the future beyond the signature date); and
  - (3) Business tax permit number, or an indication that all tax types are within the scope of authority;
- e. A clear expression of the taxpayer's intention concerning any restrictions to the scope of authority granted to the recognized representative(s) as provided in subrule 5.7(1);
- f. An authorized signature of an individual listed in subrule 5.7(4) meeting the requirements of rule 701—8.2(17A,421);
- g. Any other information required by the department.

**5.7(3) Authorization period for a tax information disclosure designation.**

a. A tax information disclosure designation may not be used to authorize disclosure for tax periods that end more than three years after the date on which the tax information disclosure designation is signed by the taxpayer. A tax information disclosure designation may concern an unlimited number of tax periods which have ended prior to the date on which the tax information disclosure designation is received by the department; however, tax periods must be stated if the intention is to limit the periods. If the tax periods section is left blank, all tax periods, including those ending up to three years in the future, are included.

b. A tax information disclosure designation continues to be effective for tax periods as defined in paragraph 5.7(3) "a" until revocation by the taxpayer, incapacity of the taxpayer, death of the taxpayer, or withdrawal, death, or incapacity of the tax information disclosure designee.

**5.7(4) Individuals who may execute a tax information disclosure designation.** The individual(s) who may execute a tax information disclosure designation depends on the type of taxpayer involved as follows:

a. *Individual.* In matters involving an individual taxpayer, a tax information disclosure designation must be signed by the individual.



## REVENUE DEPARTMENT[701](cont'd)

*b. Joint or combined returns.* In matters involving a joint return or married taxpayers who have elected to file separately on a combined return, each taxpayer must complete and submit the taxpayer's own tax information disclosure designation form. Each spouse may independently authorize disclosure of information from a joint or combined return.

*c. Individuals who have filed a valid representative certification form.* The tax information disclosure designation form must be signed by an individual who has filed a valid representative certification form authorized by the department as described in 701—subrule 7.6(6).

**5.7(5) Revocation and withdrawal.**

*a. Revocation by the taxpayer.*

(1) By written statement. By filing a statement of revocation with the department, a taxpayer may revoke a tax information disclosure designation without authorizing a new representative. The statement of revocation must indicate that the authority of the previous tax information disclosure designation is revoked and must be signed by the taxpayer. Also, the name and address of each representative whose authority is revoked must be listed (or a copy of the tax information disclosure designation must be attached).

(2) Does not automatically revoke. A new tax information disclosure designation for a particular tax type(s) and tax period(s) does not revoke a prior tax information disclosure designation for any tax type(s) and tax period(s), unless the taxpayer has indicated in a written submission to the department that a prior tax information disclosure designation is to be revoked.

*b. Withdrawal by the representative.* By filing a statement with the department, a representative may withdraw from representation in a matter in which a tax information disclosure designation has been filed. The statement must be signed by the representative and must identify the name and address of the taxpayer(s) and the matter(s) from which the representative is withdrawing. A representative may withdraw from multiple matters by including with the statement a list of all matters and taxpayers for which withdrawal is desired.

**5.7(6) Submitting a form.**

*a. Submit separately.* A tax information disclosure designation form may not be submitted as an attachment to a tax return except as provided by these rules. A tax information disclosure designation must be submitted separately to the department in accordance with the submission instructions on the form. However, the department may, at its discretion, provide a method for authorizing disclosure on the face of a tax return as defined in Iowa Code section 421.6.

*b. Original or electronic forms accepted.* The department will accept either the original, an electronically scanned and transmitted tax information disclosure designation form or representative certification form, or a copy. A copy received by facsimile transmission (fax) or email will be accepted. All copies, facsimiles and electronically scanned and transmitted forms must include a valid signature meeting the requirements of rule 701—8.2(17A,421) of the taxpayer to be represented.

*c. Timely submission.* The form must be submitted within six months of the date it is signed, or it will be considered invalid.

*d. Evaluation of documentation provided.* The department will evaluate the tax information disclosure designation form and any additional documentation to confirm authorization. Authorization to receive, inspect, and discuss confidential state tax information from the department shall only cover those matters and time frames covered by the submitted documentation. The party claiming authorization to receive, inspect, and discuss confidential state tax information from the department on behalf of a taxpayer shall have the burden to prove, to the satisfaction of the department, the existence and extent of the claimed authorization.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

ITEM 2. Rescind and reserve rule **701—5.11(17A,22)**.

ITEM 3. Rescind rule 701—7.6(17A) and adopt the following **new** rule in lieu thereof:

**701—7.6(17A,22,421,422) Authorized representatives—powers of attorney and representative certifications.** No individual, including an attorney, accountant, or other representative, will be

## REVENUE DEPARTMENT[701](cont'd)

recognized as representing any taxpayer in regard to any claim, appeal, or other matter before the department or in any communication with, hearing before, or conference with the department, or any member or agent thereof, unless there is first filed with the department a written authorization meeting the requirements of this rule and Iowa Code section 421.59. If a taxpayer wishes to allow the department to discuss otherwise confidential tax matters with an individual other than an authorized representative or power of attorney, without giving that individual authority to act on the taxpayer's behalf, the taxpayer must provide the department with written authorization to disclose such confidential tax information as provided in rule 701—5.7(17A,22,421,422).

**7.6(1)** *Individuals authorized to represent a taxpayer, generally; transfers of decision-making authority.*

*a.* If a taxpayer wishes to have any other individual or individuals act on the taxpayer's behalf in matters before the department, the taxpayer must file with the department an Iowa department of revenue (IDR) power of attorney form, as described in subrule 7.6(5), authorizing that individual to do so. Even if an individual desires to represent a taxpayer only through correspondence with the department but does not intend to personally appear before the department in a hearing or conference, the taxpayer must submit an IDR power of attorney form appointing that individual to act on the taxpayer's behalf.

*b.* Individuals with the authority to act on behalf of a taxpayer, including pursuant to Iowa Code section 421.59(2) or chapter 633B, must file a representative certification form as described in subrule 7.6(6). See subrule 7.6(6) for more information about individuals who may qualify as authorized representatives and the information required.

**7.6(2)** *Powers authorized.*

*a.* A power of attorney or representative certification form as applicable is required by the department before an individual can perform one or more of the following acts on behalf of the taxpayer:

(1) To receive copies of any notices or documents sent by the department, its representatives, or its attorneys.

(2) To receive, but not to endorse and collect, checks made payable to the taxpayer in payment of any refund of Iowa taxes, penalties, or interest. Certain representatives with a valid representative certification form may be authorized to receive, endorse and collect checks made payable to the taxpayer in payment of any refund of Iowa taxes, penalties, or interest.

(3) To execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.

(4) To execute consents extending the statutory period for assessment or collection of taxes.

(5) To fully represent the taxpayer in any hearing, determination, final or otherwise, or appeal. See subrule 7.6(8) for additional requirements.

(6) To enter into any settlement or compromise with the department.

(7) To execute any release from liability required by the department as a prerequisite to divulging otherwise confidential information concerning the taxpayer.

(8) To authorize a third party as power of attorney or disclosure designee for the taxpayer.

*b.* The taxpayer may limit the scope of the authority of a power of attorney by expressly stating the limitations, if any, on the IDR power of attorney form submitted to the department. The taxpayer may not expand the scope of authority of a power of attorney beyond those powers authorized in this rule.

**7.6(3)** *Submitting a form.*

*a. Submit separately.* An IDR power of attorney form or representative certification may not be submitted as an attachment to a tax return except as provided by these rules. A power of attorney or representative certification form must be submitted separately to the department in accordance with the submission instructions on the form(s).

*b. Original or electronic forms accepted.* The department may accept either the original, an electronically scanned and transmitted IDR power of attorney form or representative certification form, or a copy. A copy received by facsimile transmission (fax) or email may be accepted. All copies, facsimiles, and electronically scanned and transmitted forms must include a valid signature meeting the requirements of rule 701—8.2(17A,421) of the taxpayer to be represented.

## REVENUE DEPARTMENT[701](cont'd)

*c. Timely submission.* The form must be submitted within six months of the date of signature, or it will be considered invalid.

**7.6(4) Communications with represented taxpayers.** Any notice or other written communication (or copy thereof) from the department provided to the representative, where required or permitted to be given to the taxpayer in any matter before the department, will be given to the taxpayer.

**7.6(5) Powers of attorney.** Individuals appointed by a taxpayer to represent the taxpayer must file an IDR power of attorney form.

*a. Individuals who may execute an IDR power of attorney form.* The individual who must execute an IDR power of attorney form is as follows:

(1) Individual. In matters involving an individual taxpayer, an IDR power of attorney form must be signed by the individual.

(2) Joint or combined returns. In matters involving a joint return or married taxpayers who have elected to file separately on a combined return, each taxpayer must complete and submit the taxpayer's own IDR power of attorney form, even if the taxpayers are represented by the same appointee(s). In any matter concerning a joint return or married taxpayers who have elected to file separately on a combined return, in which the two taxpayers are not to be represented by the same representative(s), the recognized representative of such spouse cannot perform any act with respect to a tax matter that the spouse represented cannot perform alone.

(3) Individuals who have filed a valid representative certification form. The IDR power of attorney form must be signed by an individual who has filed a valid representative certification form authorized by the department as described in subrule 7.6(6).

*b. Contents of the IDR power of attorney form.* An IDR power of attorney form must contain the following information to be valid:

(1) Legal name and address of the taxpayer;

(2) Identification number of the taxpayer (i.e., social security number (SSN), federal identification number (FEIN), or any federal- or Iowa-issued tax identification number);

(3) Name, mailing address, and preparer's tax identification number (PTIN), FEIN, SSN, individual taxpayer identification number (ITIN), Iowa department of revenue-issued account number (IAN) of the representative, or an indication that an IAN is being requested;

(4) Description of the matter(s) for which representation is authorized, which may include:

1. The type of tax(es) involved or an indication that all tax types are within the scope of authority;
2. The specific year(s) or period(s) involved, or an indication that the scope is unlimited (not to exceed three years into the future beyond the signature date) and Iowa tax permit number, or an indication that all tax types are within the scope of authority;

(5) A clear expression of the taxpayer's intention concerning any restrictions to the scope of authority granted to the recognized representative(s) as provided in subrule 7.6(2).

(6) A valid signature meeting the requirements of rule 701—8.2(17A,421) of an individual listed in paragraph 7.6(5) "a."

(7) Any other information required by the department.

*c. Authorization period for an IDR power of attorney form.*

(1) An IDR power of attorney form may not be used to authorize representation for tax periods that end more than three years after the date on which the IDR power of attorney form is signed by the taxpayer. The authority granted may concern an unlimited number of tax periods which have ended prior to the date on which the IDR power of attorney form is received by the department; however, tax periods must be stated if the intention is to limit the periods. If the tax period section is left blank, all tax periods, including those ending up to three years in the future, are included.

(2) The authority granted by an IDR power of attorney form ceases to be effective for tax periods as defined in subparagraph 7.6(5) "c"(1) upon revocation by the taxpayer, incapacity of the taxpayer, death of the taxpayer, or withdrawal, death, or incapacity of the individual granted power of attorney authority.

*d. Evaluation of documentation provided.* The department will evaluate the IDR power of attorney form and any additional documentation to confirm authority. Authority to act before the department shall only cover those matters and time frames covered by the submitted documentation. The party claiming

## REVENUE DEPARTMENT[701](cont'd)

authority to act before the department on behalf of a taxpayer shall have the burden to prove, to the satisfaction of the department, the existence and extent of the claimed authority.

*e. Revocation and withdrawal.*

(1) Revocation by the taxpayer.

1. By written statement. By filing a statement of revocation with the department, a taxpayer may revoke authority granted by an IDR power of attorney form without authorizing a new representative. The statement of revocation must indicate that the authority of the previous representative is revoked and must be signed by the taxpayer. Also, the name and address of each representative whose authority is revoked must be listed (or a copy of the prior IDR power of attorney form must be attached).

2. By filing a new IDR power of attorney form. Filing a new IDR power of attorney form for a particular tax type(s) and tax period(s) automatically revokes a previously granted power of attorney authority for that tax type(s) and tax period(s). For a previously designated representative to remain as the taxpayer's representative when a subsequent IDR power of attorney form is filed, the taxpayer must include the representative on the newly submitted IDR power of attorney form. This rule applies regardless of whether the power of attorney authority is authorized by an IDR power of attorney form or on a return as described in subrule 7.6(7).

(2) Withdrawal by the representative. By filing a statement with the department, a representative may withdraw from representation in a matter in which an IDR power of attorney form has been filed. The statement must be signed by the representative and must identify the name and address of the taxpayer(s) and the matter(s) from which the representative is withdrawing. A representative may withdraw from multiple matters by including with the statement a list of all matters and taxpayers for which withdrawal is desired.

(3) Administrative revocation by the department. The department may administratively revoke a power of attorney or representative certification authority.

**7.6(6)** *Representative certification; durable and general powers of attorney.*

*a.* Individuals with the authority to act on behalf of a taxpayer, including pursuant to Iowa Code section 421.59(2) or chapter 633B, must file with the department a representative certification form prior to utilizing that authority with the department. Individuals authorized by an IDR power of attorney form are not required to file a representative certification form for themselves.

*b. Contents of the representative certification form.* The representative certification form must include the following information:

(1) Legal name and address of the taxpayer;

(2) Identification number of the taxpayer (i.e., SSN, FEIN, or any federal- or Iowa-issued tax identification number relative to matters covered by the IDR power of attorney form);

(3) Name, mailing address, and PTIN, FEIN, or SSN, ITIN, or IAN of the representative. If the identification number is left blank, a new IAN will be assigned to the representative;

(4) Proof of authority must be included with the form as follows:

1. Durable power of attorney or general power of attorney other than an IDR power of attorney form: a copy of the power of attorney document;

2. Guardian, conservator, or custodian appointed by a court: documentation as required in Iowa Code section 421.59(2)“a”;

3. Receiver appointed pursuant to Iowa Code chapter 680: a copy of the relevant court order(s);

4. Individual holding one of the following titles within a corporation, association, partnership, or other entity:

- President/CEO of corporation/association: in the case of a president or CEO, affirmation of authority to act on behalf of the corporation or association on the form designated by the department;

- Any officer of a corporation/association other than a president or CEO: authorization from the president or CEO;

- Designated partner authorized to act on behalf of a partnership: affirmation of authority to act on behalf of the partnership on the form designated by the department;

- Individual authorized to act on behalf of a limited liability company in tax matters: affirmation of authority to act on behalf of the limited liability company on the form designated by the department;

## REVENUE DEPARTMENT[701](cont'd)

5. Licensed attorney appearing on behalf of the taxpayer or the taxpayer's estate in a court proceeding: a copy of the filed notice of appearance in the relevant court proceeding;

6. Parent or guardian of minor taxpayer for whom the parent or guardian has signed the minor's tax return: a copy of the return signed by the parent or guardian;

7. Governmental representative: affirmation of authority to act on behalf of the government entity on the form designated by the department;

8. Executor or personal representative: a copy of the will or court order appointing the individual;

(5) A valid signature meeting the requirements of rule 701—8.2(17A,421) of the representative;

(6) Any other information required by the department.

*c. Evaluation of documentation provided.* The department will evaluate documentation submitted in support of a representative certification to confirm authority. Authority to act before the department shall only cover those matters and time frames covered by the submitted documentation. The party claiming authority to act before the department on behalf of a taxpayer shall have the burden to prove, to the satisfaction of the department, the existence and extent of the claimed authority.

*d. Revocation.* A representative certification may be revoked in the following ways:

(1) By the representative being withdrawn, following procedures in subparagraph 7.6(5) "e"(2).

(2) By the taxpayer, following procedures in subparagraph 7.6(5) "e"(1).

(3) By another representative. A representative properly appointed by a representative certification or an IDR power of attorney form may notify the department that a representative no longer has authority to act on behalf of the taxpayer by filing a statement of revocation with the department. The notification statement must indicate that the authority of the former representative has ceased and must be signed by a current authorized representative. Also, the name and address of each representative who no longer has authority must be listed (or a copy of the prior representative certification form must be attached).

(4) Administrative revocation by the department, following procedures in paragraph 7.6(5) "e."

**7.6(7) Returns that may be used to grant power of attorney authority.** An IDR power of attorney form is not needed for individuals who have been named as an authorized representative on a fiduciary return of income filed under Iowa Code section 422.14 or a tax return filed under Iowa Code chapter 450.

**7.6(8) Individuals authorized to represent themselves or others in a contested case proceeding.** The right to represent oneself or others in connection with any contested case proceeding before the department or administrative hearings division shall be limited to the following classes of individuals, so long as such representation is not barred by another provision of law. Representatives must have a valid IDR power of attorney form or valid representative certification form on file with the department to represent others in a contested case proceeding. The right to represent a taxpayer before the department or the administrative hearings division does not confer the right to represent the taxpayer in a judicial proceeding.

*a.* Taxpayers who are natural persons representing themselves. One spouse may not represent the other in contested case proceedings, unless the spouse is acting in a capacity described in paragraphs 7.6(8) "b" to "j";

*b.* Attorneys duly qualified and entitled to practice in the courts of the state of Iowa;

*c.* Attorneys who are entitled to practice before the highest court of record of any other state and who have complied with the requirements for admission to practice before the courts of the state of Iowa *pro hac vice*;

*d.* Accountants who are authorized, permitted, or licensed under Iowa Code chapter 542;

*e.* Duly authorized directors or officers of corporations representing the corporation of which they are respectively a director or officer. Attorneys who are acting in the capacity of a director or officer of a corporation must meet the requirements of paragraph 7.6(8) "b" or "c";

*f.* Partners representing their partnership. Attorneys who are acting in the capacity of a partner must meet the requirements of paragraph 7.6(8) "b" or "c";

*g.* Fiduciaries. Fiduciaries include trustees, receivers, guardians, personal representatives, administrators, and executors. For purposes of this rule, a fiduciary is considered to be the taxpayer and not a representative of the taxpayer;

*h.* Government officials authorized by law;

REVENUE DEPARTMENT[701](cont'd)

- i.* Enrolled agents, currently enrolled under 31 CFR §10.6 for practice before the Internal Revenue Service, representing a taxpayer in proceedings under division II of Iowa Code chapter 422; and
- j.* Conservators, guardians, or durable powers of attorney appointed to handle tax matters.

ITEM 4. Rescind and reserve rule **701—7.34(421)**.

[Filed 3/3/21, effective 4/28/21]

[Published 3/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.

**ARC 5530C**

## **REVENUE DEPARTMENT[701]**

**Adopted and Filed**

### **Rule making related to taxable and exempt sales**

The Revenue Department hereby amends Chapter 18, “Taxable and Exempt Sales Determined by Method of Transaction or Usage,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

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

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 423.3 as amended by 2020 Iowa Acts, House File 2641.

#### *Purpose and Summary*

Through 2020 Iowa Acts, House File 2641, the Legislature added language to an exemption from sales tax for purchases by certain government entities and instrumentalities of the government. The exemption, Iowa Code section 423.3(31), did not previously include reference to tribal governments. By function of federal law and treaties, purchases by tribal governments have always been exempt. However, the lack of reference to tribal governments in the Iowa Code created confusion for taxpayers. Thus, the Department suggested through its departmental bill that the Legislature add this reference to the exemption.

Following the codification of this language, the Department reviewed its existing rule implementing the exemption. In addition to new language to mention tribal governments, the Department felt the rule needed some overall reorganization to improve clarity. The Department is replacing references to sales tax being due on “gross receipts” with “sales price,” and has rearranged and modified some of the examples from the prior version of this rule. These changes are not intended to impact the types of purchases that are exempt or taxable for the applicable government entities or instrumentalities.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 30, 2020, as **ARC 5358C**. 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 23, 2021.

REVENUE DEPARTMENT[701](cont'd)

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. The portion of 2020 Iowa Acts, House File 2641, being implemented by this rule making was not estimated to have a fiscal impact.

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on April 28, 2021.

The following rule-making action is adopted:

Rescind rule 701—18.5(422,423) and adopt the following **new** rule in lieu thereof:

**701—18.5(423) Sales to federal, state, county, municipal, or tribal government or the government's agencies or instrumentalities.**

**18.5(1) Sales to government or agencies or instrumentalities.**

a. A sale to a government or an agency or instrumentality of government occurs only if a government or an agency or instrumentality of government pursuant to a contract for sale, takes title or ownership to tangible personal property or a specified digital product, or receives an enumerated taxable service as a buyer from a seller.

b. No sale to a government or an agency or instrumentality of government occurs if a government or an agency or instrumentality of government pays some portion of the sales price of the sale of tangible personal property, a specified digital product, or a taxable service but title to and ownership of the tangible personal property or specified digital product are transferred to or a taxable service is received by another person as a result of the sale.

c. Independent contractors who deal with agencies, instrumentalities, or other entities of government do not, by virtue of their contracting with those entities, acquire immunity or exemption from taxation for themselves. Sales to these contractors are still subject to tax. See rule 701—19.12(422,423) for rules concerning construction contracts with designated exempt entities.

**18.5(2) Sales by or to the federal government or its agencies or instrumentalities.**

a. The sales price of the sale of tangible personal property, specified digital products, or enumerated taxable services made directly by or to the United States government or to recognized agencies, departments, or instrumentalities of the United States government shall not be subject to sales tax.

b. The sales price of retail sales made directly to patients, inmates, or employees of an institution or department of the United States government are taxable, as the sales are not made directly to the government. However, sales similarly made by post exchanges and other establishments organized and controlled by federal authority shall not be subject to sales tax.

REVENUE DEPARTMENT[701](cont'd)

EXAMPLE 1: Patient B purchases a hospital bed from a drugstore. A percentage of Patient B's bill is paid by federal funds from Medicaid. Because Patient B, not the federal government, purchased the hospital bed, Iowa sales tax is due.

EXAMPLE 2: Employee C is a federal government employee who eats at a restaurant while on government business. Employee C pays for the meal with a credit card. The credit card was issued in Employee C's name, and the cost of the meal is billed to Employee C, who pays it. The federal government later reimburses Employee C the entire cost of the meal. Because Employee C, not the federal government, purchased the meal, Iowa sales tax is due.

EXAMPLE 3: Similar to Example 2, Employee D is a federal government employee who eats at a restaurant while on government business. Employee D uses a credit card to pay for the meal. However, the credit card is issued in Employee D's name, but the cost of the meal is billed to the federal government, which pays that cost. Here, the federal government is the purchaser of the meal on Employee D's behalf, and the sale is exempt from tax.

**18.5(3)** *Sales to the state of Iowa or its agencies or instrumentalities.* The sales price of sales to the state of Iowa or agencies, departments, or instrumentalities of the state of Iowa are not taxable when used for public purposes.

EXAMPLE 1: City X, an exempt instrumentality, issues a bond to finance the construction of a school. Corporation Y purchases the bond but is not involved in the project in any other way. Since City X does not enjoy the benefits of earnings of the school, the exemption provided to the city is applicable.

EXAMPLE 2: Corporation Z, an instrumentality of the federal government which Congress has allowed by statute to be subject to state sales and use taxes, purchases tangible personal property. These purchases are subject to tax because the profits of the corporation are distributed to the corporation's stockholders.

**18.5(4)** *Sales to a tribal government and its agencies or instrumentalities.* The sales price of tangible personal property, specified digital products, or enumerated taxable services furnished to a tribal government as defined in Iowa Code section 216A.161, or an agency or instrumentality of tribal government, shall not be subject to tax when used for public purposes.

**18.5(5)** *Sales by a municipal utility.*

*a.* The sales price of tangible personal property, specified digital products, or services used by or in connection with the operation of any municipally owned public utility engaged in selling gas, electricity, pay television service, or heat to the general public shall be subject to tax.

*b.* Sewage service or solid waste collection and disposal service provided to a county or municipality on behalf of nonresidential commercial operations located within the county or municipality shall also be subject to tax. See rules 701—26.71(423) and 701—26.72(423) for more information.

This rule is intended to implement Iowa Code section 423.3(31).

[Filed 2/23/21, effective 4/28/21]

[Published 3/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.

**ARC 5529C**

## **REVENUE DEPARTMENT[701]**

**Adopted and Filed**

**Rule making related to barbering, cosmetology, and esthetics**

The Revenue Department hereby amends Chapter 26, "Sales and Use Tax on Services," Iowa Administrative Code.



REVENUE DEPARTMENT[701](cont'd)

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 423.2 and 423.36 and 2020 Iowa Acts, Senate File 155.

*Purpose and Summary*

In 2020 Iowa Acts, Senate File 155, the Legislature enacted a change to the definition of “barbershop” in Iowa Code section 158.1 to allow for barber shops to be “readily movable.” Iowa Code section 423.2(6)“g” lists “barber and beauty” among the services subject to sales tax in Iowa. The Department has an existing rule regarding the practice of barbering and beauty that provides sales tax permit requirements for persons providing those services.

The Department reviewed this rule following the enactment of 2020 Iowa Acts, Senate File 155, and determined updates are appropriate. This rule making removes the explanation of activities included in the phrase “barber and beauty” and instead refers to the definitions of “barbering,” “cosmetology,” and “esthetics” from the Iowa Code chapters that govern the practices of those professions. This rule making also adds a definition of “barbershop” to capture the change made in Senate File 155. Additional changes include updating Iowa Code references and replacing the term “gross receipts” with “sales price” in accordance with revisions made to the Iowa Code since the last time this rule was updated.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 16, 2020, as **ARC 5317C**. 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 23, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. No fiscal estimate was associated with 2020 Iowa Acts, Senate File 155.

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

REVENUE DEPARTMENT[701](cont'd)

*Effective Date*

This rule making will become effective on April 28, 2021.

The following rule-making action is adopted:

Amend rule 701—26.9(422) as follows:

**701—26.9(422 433) Barber and beauty.**

**26.9(1) *Services subject to sales tax.*** Persons engaged in the business of ~~hair cutting, hair styling, hair coloring, wig care, manicuring, pedicuring, applying facial and skin preparations, and all like activities which tend to enhance the appearance of the individual~~ barbering and beauty are rendering, furnishing, or performing a service, the ~~gross receipts from sales price of which are~~ is subject to tax.

**26.9(2) *Definitions.***

“Barbering” means the same as defined in Iowa Code section 158.1.

“Barbershop” means the same as defined in Iowa Code section 158.1.

“Beauty” means the same as “cosmetology” and “esthetics” as those terms are defined in Iowa Code section 157.1.

**26.9(3) *Sales tax permits.***

a. Each “barber, beauty or other beautification shop or establishment” shall receive only one permit and remit tax as one enterprise, when operated under a common management.

b. When an operator leases space and is an independent operator, the lessee shall notify the department and secure a sales tax permit whereby the lessee will be responsible directly for the sales tax due. In order to be considered independent, the lessee must also be independent from the lessor for the purposes of withholding of income tax, unemployment compensation, and social security taxes.

**26.9(4) *Leasing.*** The lessor who has leased a part of the premises shall report to the department the names and addresses of all lessees. If the lessor is accounting for the lessee’s sales, the lessor shall, after the name of each lessee, show the amount of net taxable sales made by the lessee on each report to the department, and which net taxable sales are included in the lessor’s return. See also rule 701—15.11(422,423).

This rule is intended to implement Iowa Code ~~section 422.43~~ sections 423.2(6) “g” and 423.36.

[Filed 2/23/21, effective 4/28/21]

[Published 3/24/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.

**ARC 5531C****UTILITIES DIVISION[199]****Adopted and Filed****Rule making related to review of rules**

The Utilities Board hereby amends Chapter 25, “Iowa Electrical Safety Code,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 476.

UTILITIES DIVISION[199](cont'd)

*Purpose and Summary*

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2) and rule 199—3.11(17A,474). The purpose of the comprehensive review is to identify and update or eliminate rules that are “outdated, redundant, or inconsistent or incompatible” with statutes and other administrative rules.

In reviewing Chapter 25, the Board found subrule 25.3(2) to be outdated and requires amendment. Specifically, the requirements of subrule 25.3(2) only apply to investor-owned, rate-regulated electric utilities, and the subrule has been amended to reflect that. On February 19, 2021, the Board issued an order adopting amendments. The order is available on the Board’s electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2020-0025.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 26, 2020, as **ARC 5153C**.

The Board received a written comment from Interstate Power and Light Company, which supported the rescission of subrule 25.3(2) as published under the Notice, and a written comment from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice. OCA requested the Board retain subrule 25.3(2) in its current form.

In furtherance of its objective to update outdated rules, the Board adopted an amended version of subrule 25.3(2) that excludes from its scope those electric utilities to which the subrule no longer applies and specifically identifies those electric utilities to which the subrule does apply.

*Adoption of Rule Making*

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

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

No waiver provision is included because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

*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 28, 2021.

The following rule-making action is adopted:

Amend subrule 25.3(2) as follows:

**25.3(2) Annual report.** Each investor-owned, rate-regulated utility shall include as part of its annual report to the board, as required by 199—Chapter 23, certification of compliance with each area of

UTILITIES DIVISION[199](cont'd)

the inspection and maintenance plan required by subrule 25.3(1) or a detailed statement on areas of noncompliance.

[Filed 2/24/21, effective 4/28/21]

[Published 3/24/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.

**PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR ELECTRONIC FORMAT DUE TO COVID-19**

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a Notice of Intended Action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 108 of the Governor's proclamation of disaster emergency issued March 5, 2021: [governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202021.03.05.pdf](http://governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202021.03.05.pdf).