



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2023

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
23	Friday, April 28, 2023	May 17, 2023
24	Wednesday, May 10, 2023	May 31, 2023
25	Friday, May 26, 2023	June 14, 2023

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 Monday, May 8, 2023, at 10:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

NOTE: See also Supplemental Agenda published in the May 3, 2023, Iowa Administrative Bulletin.

ECONOMIC DEVELOPMENT AUTHORITY[261]

State small business credit initiative (SSBCI), ch 112 Filed **ARC 6978C** 4/5/23

EDUCATION DEPARTMENT[281]

Family support mentoring program, 41.329, 120.347 Filed **ARC 6979C** 4/19/23

Child development coordinating council; educational support programs for parents of children who are at risk, amendments to chs 64, 67 Filed **ARC 6980C** 4/19/23

Accreditation of area education agencies, 72.4 Filed **ARC 6981C** 4/19/23

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Solid waste—five-year review of rules, amend chs 100, 102, 114, 115, 120; rescind ch 104 Filed **ARC 6982C** 4/19/23

HUMAN SERVICES DEPARTMENT[441]

Managed care, ch 73 Filed **ARC 6959C** 4/5/23

Child-placing agencies—five-year review of rules, 108.1, 108.2, 108.4, 108.6(5)"d," 108.7 to 108.9, 108.10(3)"c" Filed **ARC 6960C** 4/5/23

Licensing and regulation of foster family homes—definitions, communicable diseases, whooping cough vaccine religious exemption, amendments to ch 113 Filed **ARC 6961C** 4/5/23

Group living foster care facilities—five-year review of rules, amendments to ch 114 Filed **ARC 6962C** 4/5/23

Residential care facilities for children—contact time with caseworkers, chemical restraints, documentation regarding use of control room, 115.4(2)"a"(3), 115.5, 115.6(2), 115.7(2)"c" Filed **ARC 6963C** 4/5/23

Payments for foster care—five-year review of rules, 156.6, 156.7(2)"a," 156.8, 156.10, 156.11, 156.14, 156.15 Filed **ARC 6964C** 4/5/23

Child care services—five-year review of rules, amendments to ch 170 Filed **ARC 6965C** 4/5/23

Dependent adult abuse, amendments to ch 176 Filed **ARC 6966C** 4/5/23

INSPECTIONS AND APPEALS DEPARTMENT[481]

Psychiatric medical institutions for children (PMIC), 41.1 to 41.4, 41.6, 41.9, 41.16(2)"b" Filed **ARC 6973C** 4/5/23

Hospice license standards—five-year review of rules, physician assistants, amendments to ch 53 Filed **ARC 6975C** 4/5/23

Care facilities—physician assistants, 57.6(2)"a," 65.1, 71.8(3)"a"(3) Filed **ARC 6974C** 4/5/23

Intermediate care facilities for the intellectually disabled, amendments to ch 64 Filed **ARC 6972C** 4/5/23

Alcoholic beverage licensing—social and charitable gambling, registered amusement devices, 100.1, 100.4, 100.6, 103.2(4), 103.9, 105.2, 105.6(4), 105.7, 105.9(1), 105.11(2)"a," 105.12 Filed **ARC 6976C** 4/5/23

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Five-year review of rules, amendments to chs 1, 3, 4, 9, 10, 29, 160, 169, 176, 215 to 217, 220 Filed **ARC 6986C** 4/19/23

Federal occupational safety and health standards—penalties for citations, 3.11(1) Filed **ARC 6991C** 4/19/23

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Deer hunting by residents—general licenses, antlerless-deer-only, 106.1, 106.6(6) Notice **ARC 6977C** 4/5/23

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CORRECTIONS DEPARTMENT[201]"umbrella"

Five-year review of rules, amendments to chs 1 to 9, 11, 13 to 16 Filed **ARC 6968C** 4/5/23

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Barbers—examination registration process, fees, 5.2, 21.2(1)"e," 21.3, 21.9(3), 21.11(1), 21.16(2), 21.17(2) Filed **ARC 6983C** 4/19/23

Marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts—licensure, continuing education, notarization, 31.6(3), 31.8(1)“f,” 31.16(3) Filed ARC 6997C 4/19/23

Dietitians—licensure, continuing education, 81.7, 81.15(3) Filed ARC 7002C 4/19/23

Hearing aid specialists—licensure, 121.6(1)“d” Filed ARC 6998C..... 4/19/23

Massage therapists—licensure, continuing education, notarization, 131.2(1)“e,” 131.3(2), 131.4(2)“f,” 131.6(1)“c,” 131.9(2), 133.3(2) Filed ARC 6992C..... 4/19/23

Nursing home administrators—licensure, continuing education, notarization, 141.4(3)“b,” 141.7(1)“e,” 141.15(3) Filed ARC 6995C 4/19/23

Optometrists—licensure, 180.3(1)“b,” 180.11(2) Filed ARC 7000C 4/19/23

Physical therapists and physical therapist assistants, occupational therapists and occupational therapy assistants—licensure, continuing education, 200.7(1)“g,” 200.15(3), 203.1, 206.9, 206.11(3), 207.1 Filed ARC 6985C..... 4/19/23

Podiatrists, orthotists, prosthetists, and pedorthists—licensure, continuing education, notarization, 220.4(2)“b,” 220.6(2)“f,” 220.7(1)“e,” 220.15(3), 221.6(1)“f,” 221.8(3) Filed ARC 6994C..... 4/19/23

Respiratory care practitioners, polysomnographic technologists, and respiratory care and polysomnography practitioners—licensure, continuing education, notarization, 261.2(1)“g,” 261.3, 261.4(6)“b,” 261.5(1), 261.14, 262.1, 262.2(1) Filed ARC 6993C..... 4/19/23

Social workers—licensure, continuing education, notarization, 280.5(4), 280.7(1)“f,” 280.14(3) Filed ARC 6996C..... 4/19/23

Speech pathologists and audiologists—licensure, 300.9(2)“b” Filed ARC 6999C..... 4/19/23

Athletic trainers—licensure, continuing education, notarization, 351.3(2)“b,” 351.7(1)“e,” 351.15, 352.1 Filed ARC 6984C 4/19/23

Sign language interpreters and transliterators—licensure, continuing education, notarization, 361.4(1), 361.9(3) Filed ARC 7001C 4/19/23

PUBLIC HEALTH DEPARTMENT[641]

Swimming pools and spas, 15.4(1)“e,” 15.5, 15.10(4), 15.12(5), 15.51, 15.52(5)“d”(2) Filed ARC 6967C..... 4/5/23

REVENUE DEPARTMENT[701]

Appeals, taxpayer representation, and other administrative procedures, amendments to ch 7 Filed ARC 6988C..... 4/19/23

Electronic filing of income tax returns—electronic signatures, 8.5(2)“b” Filed ARC 6987C 4/19/23

Mandatory electronic filing—exceptions, 8.7(5) Filed ARC 6990C 4/19/23

Manufacturers of food or food ingredients, 215.2 Filed ARC 7004C 4/19/23

Sales of diapers, 220.17 Filed ARC 6989C..... 4/19/23

Fiduciary income tax returns—extension of time to file, 700.5 Filed ARC 7003C..... 4/19/23

TRANSPORTATION DEPARTMENT[761]

Tourist-oriented directional signing, 119.1 to 119.6 Filed ARC 6971C 4/5/23

Commercial driver’s license—adoption by reference of federal regulations, 520.1(1), 529.1, 607.10(1)“d,” 607.49(6)“f” Filed ARC 6970C 4/5/23

Driver’s license issuance, amendments to ch 605 Filed ARC 6969C 4/5/23

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 Mike Klimesh
Vice Chair
Senate District 32

Senator Nate Boulton
Senate District 20

Senator Mike Bousselot
Senate District 21

Senator Waylon Brown
Senate District 30

Senator Pam Jochum
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Representative Amy Nielsen
House District 85

Representative Rick Olson
House District 39

Representative Mike Sexton
House District 7

Representative David Young
House District 28

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Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone: 515.281.5211

ECONOMIC DEVELOPMENT AUTHORITY[261]

Employer child care tax credit,
ch 57
IAB 4/5/23

Regulatory Analysis

1963 Bell Ave.
Des Moines, Iowa

April 26, 2023
9 to 9:30 a.m.

NATURAL RESOURCE COMMISSION[571]

Deer hunting by
residents—general licenses,
antlerless-deer-only, 106.1,
106.6(6)
IAB 4/5/23 **ARC 6977C**

Via video/conference call
Contact Chris Ensminger
Email: chris.ensminger@dnr.iowa.gov

April 25, 2023
12 noon to 1 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.

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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 Roby Smith, 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 April is 5.75%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective April 11, 2023, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

Table with 2 columns: Term (7-31 days, 32-89 days, 90-179 days, 180-364 days, One year to 397 days, More than 397 days) and Minimum Rate (.05%, .05%, 1.10%, 1.20%, 1.25%, .95%)

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 Roby Smith, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

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

USURY(cont'd)

May 1, 2022 — May 31, 2022	4.25%
June 1, 2022 — June 30, 2022	4.75%
July 1, 2022 — July 31, 2022	5.00%
August 1, 2022 — August 31, 2022	5.25%
September 1, 2022 — September 30, 2022	5.00%
October 1, 2022 — October 31, 2022	5.00%
November 1, 2022 — November 30, 2022	5.50%
December 1, 2022 — December 31, 2022	6.00%
January 1, 2023 — January 31, 2023	6.00%
February 1, 2023 — February 28, 2023	5.50%
March 1, 2023 — March 31, 2023	5.50%
April 1, 2023 — April 30, 2023	5.75%
May 1, 2023 — May 31, 2023	5.75%

ARC 6979C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to family support mentoring program

The State Board of Education hereby amends Chapter 41, “Special Education,” and Chapter 120, “Early Access Integrated System of Early Intervention Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 604.

Purpose and Summary

House File 604 required the Department of Education to establish and, for each year in which there is an appropriation, implement a “comprehensive family support mentoring program that meets the language and communication needs of families.” House File 604 also required the Department to establish rules to implement this program, regardless of whether there is an appropriation. This rule making fulfills the requirements of the legislation.

During the drafting of these rules, the Department received information from representatives of the Iowa School for the Deaf, the Iowa Department of Public Health, and Iowa’s area education agencies. Those representatives concur in the content of these rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 8, 2023, as **ARC 6875C**. 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 on March 23, 2023.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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).

EDUCATION DEPARTMENT[281](cont'd)

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Adopt the following new rule 281—41.329(256B,34CFR300):

281—41.329(256B,34CFR300) Family support mentoring program. If moneys are appropriated by the general assembly for a fiscal year for the purpose provided in this rule, the department shall develop guidelines for a comprehensive family support mentoring program that meets the language and communication needs of families, or implement them if guidelines already exist. The department, in consultation with the Iowa school for the deaf, shall administer the family support mentoring program for deaf or hard-of-hearing children.

41.329(1) General department powers. In establishing the family support mentoring program, the department may do all of the following, either directly or through a contract or agreement:

- a. Hire a family support mentoring coordinator.
- b. Utilize the parent resource created in Iowa Code section 256B.10(2) as well as other resources to provide families with information and guidance on language, communication, social, and emotional development of their child.
- c. Recruit family support mentors to serve the needs of the family support mentoring program.
- d. Train parents of a deaf or hard-of-hearing child to become family support mentors and train deaf or hard-of-hearing adults to become deaf or hard-of-hearing adult family support mentors.
- e. Reach out to parents of children identified through the early hearing detection and intervention program in the Iowa department of public health and share information about the family support mentoring program services available to such parents.
- f. Reach out to families referred by primary care providers, the area education agencies, and from other agencies that provide services to deaf or hard-of-hearing children.
- g. Provide follow-up contact, as necessary, to establish services after initial referral.
- h. Provide administrative oversight of any program established under this rule. Administrative oversight may include:
 - (1) Review of the qualifications of mentors;
 - (2) Alignment of family needs with paired mentors;
 - (3) Administration and analysis of satisfaction surveys; and
 - (4) Gathering demographic data of those served, such as ages and geographic location of children.

41.329(2) Collaboration.

a. The department shall work with the early hearing detection and intervention program in the Iowa department of public health, the Iowa school for the deaf, and the area education agencies when developing the guidelines.

b. The department shall coordinate family support mentoring activities with the early hearing detection and intervention program in the Iowa department of public health, the Iowa school for the deaf, the area education agencies, and nonprofit organizations that provide family support mentoring to parents with deaf or hard-of-hearing children.

41.329(3) Nature of the program.

- a. A family support mentor may be any of the following:
- (1) A parent who has experience raising a child who is deaf or hard-of-hearing and who has experience supporting the child's communication and language development.
 - (2) A deaf or hard-of-hearing adult who serves as a deaf or hard-of-hearing role model for the children and their families. Deaf or hard-of-hearing family support mentors may provide parents with an understanding of American sign language and English, including instructional philosophies for both, such as bilingual bimodal, listening and spoken language, total communication, and other philosophies, as well as other forms of communication, deaf culture, deaf community, and self-identity.

EDUCATION DEPARTMENT[281](cont'd)

(3) The department will ensure mentors are qualified to provide supports that match the specific needs, experiences, and desires of families of children who are deaf or hard-of-hearing.

(4) Nothing in this rule shall be construed to create or require any credential or certification to serve as a family support mentor.

b. With the consent of the parent of the deaf or hard-of-hearing child, the family support mentoring program shall pair families based on the specific need, experience, or want of the parent of the deaf or hard-of-hearing child with another family mentor or deaf or hard-of-hearing adult mentor to provide support.

c. The family support mentoring program under this rule shall meet the following additional standards:

(1) Serve families of children who are deaf or hard-of-hearing from the child's birth through age 8, and may serve learners up to age 21;

(2) Provide services statewide, regardless of educational setting of the child;

(3) Make services available to families based on their specific need, experience, or want;

(4) Make services available to all children who are deaf or hard-of-hearing and their families, regardless of children's eligibility for other programs, including Section 504 of the Rehabilitation Act of 1973; and

(5) Not condition receipt of services under this rule upon eligibility under this chapter or 281—Chapter 120.

41.329(4) *Rule of construction.* This rule only applies in a fiscal year for which there is an appropriation by the general assembly.

ITEM 2. Adopt the following new rule 281—120.347(256B,34CFR303):

281—120.347(256B,34CFR303) Family support mentoring program. Rule 281—41.329(256B,34CFR300) is incorporated herein by this reference.

This rule is intended to implement Iowa Code section 256B.10.

[Filed 3/23/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6980C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to child development coordinating council and educational support programs for parents of children who are at risk

The State Board of Education hereby amends Chapter 64, "Child Development Coordinating Council," and Chapter 67, "Educational Support Programs for Parents of At-Risk Children Aged Birth Through Five Years," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 279.51.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 279.51.

Purpose and Summary

This rule making provides greater flexibility for grantee uses of funds, repeals obsolete language, uses preferred "person first" language, and makes changes to align the rules with the underlying Iowa Code

EDUCATION DEPARTMENT[281](cont'd)

section (such as clarifying the respective authority between the Department and the Child Development Coordinating Council).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 8, 2023, as **ARC 6876C**. 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 on March 23, 2023.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **281—64.2(256A,279)**, definition of “Low-income family,” as follows:

“*Low-income family*” means a family who meets the financial eligibility criteria for free and reduced price meals offered under the child nutrition program.

ITEM 2. Amend rule 281—64.6(256A,279) as follows:

281—64.6(256A,279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the council shall grant awards on a competitive basis to child development programs for three- and four-year-old children who are at risk and public school child development programs for three-, four-, and five-year-old children who are at risk. Competitive grants will be awarded with a renewal option for up to five years when grantees meet program requirements. If program requirements are not met, the council shall advise the department ~~may to~~ discontinue grant funding at the start of the following fiscal year.

ITEM 3. Amend subrule 64.8(1) as follows:

64.8(1) Criteria. Up to 20 percent of the available funded child development enrollment slots for at-risk may be filled by children who are three or four years of age on or before September 15 or public school enrollment slots by children who are three, four, or five years of age on or before September 15; are above the income eligibility guidelines provided that they are served on a sliding fee schedule

EDUCATION DEPARTMENT[281](cont'd)

determined at the local level; and are eligible according to one or more of the following criteria if the child:

1. Is functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional;
2. Was born at ~~biological risk~~ with one or more factors that are established as high risk for developmental delay, such as very low birth weight (under 1500 grams—approximately three pounds) or with a diagnosed medical disorder, conditions such as spina bifida, or Down's Down syndrome, or other genetic disorders;
3. Was born to a parent who was under the age of 18; ~~or~~
4. Resides in a household where one or more of the parents or guardian guardians:
Has not completed high school;
Has ~~been identified as a substance abuser~~ use disorder;
Has ~~been identified as chronically mentally ill~~ a chronic mental illness;
~~Is illiterate~~ Has low literacy skills;
Is incarcerated; or
~~Is a child or spouse abuser.~~ Has a history of child or spousal abuse; or
5. Has other special circumstances, such as foster care or being homeless.

The program may include children ~~not at risk~~ without risk factors, provided they are at full pay and meet other age requirements.

ITEM 4. Rescind and reserve rule ~~281—64.13(256A,279)~~.

ITEM 5. Amend paragraph **64.15(1)“c”** as follows:

c. Record of budget, including expenditures. Grant funding is to support direct services to children to the fullest extent possible. Administrative costs under these programs shall be limited to 10 percent of the total award.

ITEM 6. Amend subrule 64.15(2) as follows:

64.15(2) Programs in year one of award. Each program in year one of a grant ~~awarded on or after July 1, 2015,~~ shall meet the program standards and accreditation criteria of the National Association for the Education of Young Children, the Iowa quality preschool program standards, or other approved program standards as determined by the department during the program's first year of funding. Programs that do not attain accreditation or that do not receive a waiver will not be funded.

ITEM 7. Amend subrule 64.15(3) as follows:

64.15(3) Programs in renewal years.

a. ~~Programs awarded grants prior to July 1, 2015, shall participate in the renewal process and maintain accreditation with the National Association for the Education of Young Children until the end of the final renewal year. Programs unable to maintain accreditation may apply for a waiver of accreditation within 30 days of the change in accreditation status. Waivers shall be awarded at the discretion of the council. Programs that do not maintain accreditation or that do not receive a waiver will not be funded.~~

b. a. Programs awarded grants ~~on or after July 1, 2015,~~ shall participate in the renewal process and maintain accreditation with the National Association for the Education of Young Children, the Iowa quality preschool program standards and criteria, or other approved program standards as determined by the department. Programs unable to maintain accreditation may apply for a waiver of accreditation within 30 days of the change in accreditation status. Waivers shall be awarded at the discretion of the council. Programs that do not maintain accreditation or that do not receive a waiver will not be funded.

e. b. Continuation of a grantee's participation for a second or subsequent renewal year is subject to the approval of the department based upon the grantee's compliance with program requirements and the department's review of the grantee's implementation of the grant program.

d. c. Awarded grantees are to maintain the program standards identified in the awarded application throughout the five-year grant cycle, unless unforeseen circumstances occur. Such circumstances will be considered at the discretion of the council.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 8. Amend rule 281—64.18(256A,279) as follows:

281—64.18(256A,279) Contract revisions and budget reversions. The grantee shall immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but shall not increase the total amount of the grant. ~~The council may advise the department regarding revised contracts if the revision is in excess of 10 percent of a budget category. Grantees who revert 3 percent or more of their program budget at the end of the budget year will have that dollar amount permanently deducted from all subsequent grant awards.~~ Grant funds unencumbered or unobligated at the conclusion of the program period will revert to the department. The program period concludes at the end of the five-year grant cycle, if an annual renewal grant within the five-year grant cycle is not awarded, or at any time the grant is discontinued during the five-year grant cycle.

ITEM 9. Amend rule 281—64.20(256A,279) as follows:

281—64.20(256A,279) Termination for cause. The contract may be terminated in whole or in part at any time before the date of completion, whenever it is determined by the council that the grantee has failed to comply substantially with the conditions of the contract. The grantee shall be notified in writing by the department of the reasons for the termination and the effective date. The grantee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

The department shall administer the child development grants and public school grants contingent upon their availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of the child development grants and the public school grants, the contracts shall be terminated or renegotiated. ~~The council~~ the department may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order.

The contract may be terminated in whole or in part by June 30 of the current fiscal year in the event that the grantee has not attained accreditation ~~by the National Association for the Education of Young Children~~ of the program standards identified in the awarded application or has not been awarded a waiver of accreditation by the council.

ITEM 10. Amend rule 281—64.24(256A,279), introductory paragraph, as follows:

281—64.24(256A,279) Request for Reconsideration. ~~A disappointed~~ An applicant who has not been approved for funding may file a Request for Reconsideration with the director of the department in writing within ~~10~~ ten days of the decision to decline to award a grant. In order to be considered by the director, the Request for Reconsideration shall be based upon one of the following grounds:

ITEM 11. Amend **281—Chapter 67**, title, as follows:

EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS
OF ~~AT-RISK~~ CHILDREN AGED BIRTH THROUGH FIVE YEARS WHO ARE AT RISK

ITEM 12. Amend rule 281—67.1(279) as follows:

281—67.1(279) Purpose. These rules set forth procedures and conditions under which state funds shall be granted to school districts, area education agencies or other agencies which administer quality educational support services to parents of ~~at-risk~~ children aged birth through five years who are at risk.

ITEM 13. Amend rule **281—67.2(279)**, definition of "Applicant," as follows:

"*Applicant*" means a public school district, area education agency or an agency which applies for the funds to provide quality educational support programs to parents of ~~at-risk~~ children aged birth through five years who are at risk, with an emphasis on parents of children aged birth through three years.

ITEM 14. Amend rule **281—67.2(279)**, definition of "At-risk children," as follows:

"~~At-risk children~~ Children who are at risk" means children aged birth through age five years who are at risk because of physical or environmental influence.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 15. Amend rule **281—67.2(279)**, definition of “Grantee,” as follows:

“*Grantee*” means the applicant designated to receive the grants for educational support services to parents of ~~at-risk~~ children aged birth through five years who are at risk.

ITEM 16. Rescind the definition of “Early intervention interagency council” in rule **281—67.2(279)**.

ITEM 17. Amend rule 281—67.3(279) as follows:

281—67.3(279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the ~~department~~ council shall grant awards to applicants for the provision of educational support services to parents of ~~at-risk~~ children aged birth through five years who are at risk, with priority to applicants that serve parents of ~~at-risk~~ children aged birth through three years who are at risk. Funds shall be made available on a competitive basis to schools or nonprofit agencies demonstrating an ability to provide quality educational support services to parents of ~~at-risk~~ children aged birth through five years who are at risk. Competitive grants will be awarded with a renewal option for up to five years contingent upon the awardee’s meeting program requirements. If program requirements are not met, the council shall advise the department ~~may~~ to discontinue grant funding at the start of the following fiscal year.

ITEM 18. Amend rule 281—67.4(279) as follows:

281—67.4(279) Eligibility. The available funds shall be directed to serve parents of ~~at-risk~~ children aged birth through five years who are at risk in the primary eligibility category as follows:

Parents having one or more children aged birth through five years who meet the current income eligibility guidelines for free and reduced price meals ~~in a local school or whose total income is, or is projected to be, equal to or less than 125 percent of the federally established poverty guidelines under the child nutrition program.~~

ITEM 19. Amend rule 281—67.5(279) as follows:

281—67.5(279) Secondary eligibility. The available funds shall be directed to serve parents of ~~at-risk~~ children aged birth through five years who are at risk when children qualify in one or more of the secondary eligibility categories as follows:

1. Children who are abused.
2. Children functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional.
3. Children born with ~~an established biological risk factor~~ one or more factors that are established as high risk for developmental delay, such as very low birth weight (under 1500 grams—approximately three pounds) or with conditions such as spina bifida, ~~Down’s~~ Down syndrome, or other genetic disorders.
4. Children born to a parent who was under the age of 18.
5. Children residing in a household where one or more of the parents or ~~guardian~~ guardians:
 - Has not completed high school;
 - Has ~~been identified as a substance abuser~~ use disorder;
 - Has ~~been identified as chronically mentally ill~~ a chronic mental illness;
 - Is incarcerated;
 - ~~Is illiterate~~ Has low literacy skills;
 - ~~Is Has a history of child abuser or spouse abuser~~ spouse abuse; or
 - Is an English learner.
6. Children having other special circumstances, such as foster care or being homeless.

ITEM 20. Amend subrule 67.6(1) as follows:

67.6(1) Criteria points. The following information shall be provided and points shall be awarded to applicants based on the following criteria as stated in the request for proposal:

1. Identification of parents of ~~at-risk~~ children who are at risk.
2. to 6. No change.

EDUCATION DEPARTMENT[281](cont'd)

7. Program budget (administrative) costs not to exceed 10 percent of total award).

ITEM 21. Amend rule 281—67.7(279) as follows:

281—67.7(279) Application process. The council shall advise the department shall to announce through public notice the opening of an application period.

ITEM 22. Amend rule 281—67.8(279) as follows:

281—67.8(279) Request for proposals. Applications for the grants for educational support services to parents of ~~at-risk~~ children aged birth through five years grants who are at risk shall be distributed by the department upon request. Proposals not containing the specified information or not received by the specified date may not be considered. All applications shall be submitted in accordance with instructions in the request for proposals. The proposals shall be submitted to the department.

ITEM 23. Amend subrule 67.9(1) as follows:

67.9(1) Grants for educational support services to parents of ~~at-risk~~ children aged birth through five years who are at risk shall not supplant other existing funding sources.

ITEM 24. Amend rule 281—67.10(279) as follows:

281—67.10(279) Notification of applicants. ~~Applicants shall be notified~~ The council shall advise the department to notify applicants of the department's decision to approve or disapprove the proposal within 45 days of the deadline for applications. Negotiations may be required. Successful applicants will be requested to have an official with vested authority sign a contract with the department.

ITEM 25. Amend rule 281—67.11(279) as follows:

281—67.11(279) Grantee responsibilities. The grantee shall maintain records which include, but are not limited to:

1. Demographic information on parents and children served.
2. Qualifying criteria for those parents receiving educational support services.
3. Documentation of the number of contact hours in either individual or group sessions with parents.
4. Documentation of the type of educational support service provided to parents.
5. Indication of where the services were provided, i.e., home, school or community facility.
6. Evaluation of how each project goal and objective was met, on what timeline, and with what success rate.
7. Record of expenditures and an annual audit. Grant funding is to support direct services to families and their children to the fullest extent possible.
8. Other information specified by the ~~department~~ council necessary to the overall evaluation.

Grantees shall complete a year-end report on forms provided by the department documenting the information outlined in this rule. ~~The final project report is due 30 days after the completion of the project as defined in the contract with the department.~~

ITEM 26. Amend rule 281—67.12(279) as follows:

281—67.12(279) Withdrawal of contract offer. If the applicant and the department are unable to successfully negotiate a contract, the ~~department~~ council may withdraw the award offer.

ITEM 27. Amend rule 281—67.13(279) as follows:

281—67.13(279) Evaluation. The grantee shall cooperate with the ~~department~~ council and provide requested information to determine how well the goals and objectives of the project are being met.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 28. Amend rule 281—67.14(279) as follows:

281—67.14(279) Contract revisions. The grantee shall immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but shall not increase the total amount of the grant. ~~The council may advise the department regarding revised contracts if the revision is in excess of 10 percent of a budget category.~~ Grant funds unencumbered or unobligated at the conclusion of the program period will revert to the department. The program period concludes at the end of the five-year grant cycle, if an annual renewal grant within the five-year grant cycle is not awarded, or at any time the grant is discontinued during the five-year grant cycle.

ITEM 29. Amend rule 281—67.16(279) as follows:

281—67.16(279) Termination for cause. The contract may be terminated, in whole or in part, at any time before the date of completion, whenever it is determined by the ~~department~~ department council that the grantee has failed to comply substantially with the conditions of the contract. The grantee shall be notified in writing by the department of the reasons for the termination and the effective date. The grantee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

The department shall administer the educational support services grants contingent upon their availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of these grants, the contracts shall be terminated or renegotiated. The department may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order.

ITEM 30. Amend rule 281—67.20(279), introductory paragraph, as follows:

281—67.20(279) Request for Reconsideration. ~~A disappointed~~ An applicant who has not been approved for funding may file a Request for Reconsideration with the director of the department in writing within ~~10~~ ten days of the decision to decline to award a grant. In order to be considered by the director, the Request for Reconsideration shall be based upon one of the following grounds:

[Filed 3/23/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6981C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to area education agency accreditation standards

The State Board of Education hereby amends Chapter 72, "Accreditation of Area Education Agencies," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2001 Iowa Acts, House File 637, and 2010 Iowa Acts, Senate File 2088.

Purpose and Summary

EDUCATION DEPARTMENT[281](cont'd)

This rule making adds missing required elements to the rule on area education agency accreditation standards.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 8, 2023, as **ARC 6877C**. 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 on March 23, 2023.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making action is adopted:

Adopt the following **new** subrules 72.4(10) to 72.4(12):

72.4(10) The AEA shall maintain a program and services evaluation and reporting system, consistent with the requirements of this chapter.

72.4(11) The AEA shall provide support for school district libraries in accordance with Iowa Code section 273.2(4).

72.4(12) The AEA shall provide support for early childhood service coordination for families and children to meet health, safety, and learning needs, including service coordination under 281—Chapter 120.

[Filed 3/23/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6982C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to five-year review of rules

The Environmental Protection Commission (Commission) hereby amends Chapter 100, “Scope of Title—Definitions—Forms—Rules of Practice,” and Chapter 102, “Permits”; rescinds Chapter 104, “Sanitary Disposal Projects with Processing Facilities”; and amends Chapter 114, “Sanitary Landfills: Construction and Demolition Wastes,” Chapter 115, “Sanitary Landfills: Industrial Monofills,” and Chapter 120, “Landfarming of Petroleum Contaminated Soil,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455B.304, 455B.383 and 455D.7(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.301A, 455B.304, 455B.307 and 455B.383 and chapter 455D.

Purpose and Summary

Chapters 100, 102, 104, 114, 115 and 120 regulate solid waste. This rule making reduces and consolidates these regulations. Specifically, the rule making rescinds redundant or outdated rules, consistent with Iowa Code section 17A.7(2)’s five-year rules review directive. It also consolidates rules scattered across three chapters into one chapter. Chapter 104 in its entirety is rescinded, and the requirements for solid waste incinerator operator certification are moved to Chapter 102. This strategic streamlining will make all of the regulations more intuitive and easier to read and understand.

No new policies are included in this rule making.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 14, 2022, as **ARC 6755C**. A public hearing was held on January 3, 2023, at 1:30 p.m. via video/conference call. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on March 22, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

ENVIRONMENTAL PROTECTION COMMISSION[567](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 May 24, 2023.

The following rule-making actions are adopted:

- ITEM 1. Amend **567—Chapter 100**, title, as follows:
 SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE
- ITEM 2. Amend rule 567—100.1(455B,455D) as follows:

567—100.1(455B,455D) Scope of title. The department has jurisdiction over the management, dumping, depositing, and disposal of solid waste by establishing standards for sanitary disposal projects and by regulating solid waste through a system of general rules and specific permits. The construction and operation of any sanitary disposal project requires a specific permit from the department.

This chapter provides general definitions applicable to ~~this title and rules of practice, including forms, applicable to the public in the department's administration of the subject matter of this title~~ Title VIII (solid waste management and disposal) of the commission's rules and general conditions of solid waste disposal.

~~Chapter 101 contains the general requirements relating to solid waste management and disposal. Chapter 102 pertains to the permits which must be obtained in order to construct and operate a sanitary disposal project. Chapter 103 details the requirements for all sanitary landfills accepting only coal combustion residue. Chapter 104 details the requirements for sanitary disposal projects with processing facilities. Chapter 105 sets forth the requirements for the planning and operation of all composting facilities. Chapter 106 pertains to design and operating requirements for recycling operations. Chapter 107 sets forth the rules pertaining to beverage container deposits and approval of redemption centers. Chapter 108 pertains to the reuse of solid waste. Chapter 109 contains the procedure for the assessment and collection of fees for the disposal of solid waste at sanitary landfills. Chapter 110 contains design, construction, and operation standards for solid waste management facilities. Chapter 112 details the requirements for all sanitary landfills accepting only biosolids. Chapter 113 details the requirements for all sanitary landfills accepting municipal solid waste. Chapter 114 details the requirements for all sanitary landfills accepting only construction and demolition wastes. Chapter 115 details the requirements for all sanitary landfills that are industrial waste monofills. Chapter 117 details the requirements for outdoor storage and processing of waste tires. Chapter 118 governs removal and disposal of PCBs from white goods. Chapter 119 provides requirements for collection and disposal of waste oil. Title VIII, Chapters 120 and 121, govern land application of sludge and other solid waste.~~

This rule is intended to implement Iowa Code section 455B.304 and chapter 455D.

- ITEM 3. Amend rule **567—100.2(455B,455D)**, definition of "Solid waste," as follows:

"Solid waste" has the same meaning as found in Iowa Code section 455B.301. Pursuant to Iowa Code section ~~455B.301(23)"b,"~~ 455B.301(29)"b," the commission has determined that solid waste includes those wastes exempted from federal hazardous waste regulation pursuant to 40 CFR 261.4(b) as amended through November 16, 2016, except to the extent that any such exempted substances are liquid wastes or wastewater. This definition applies to all chapters within Title VIII. To the extent that there is a conflict, this definition controls.

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ITEM 4. Rescind the definitions of “Leachate,” “Private agency,” “Rubble” and “Sanitary landfill” in rule **567—100.2(455B,455D)**.

ITEM 5. Adopt the following **new** definitions of “Incorporation,” “Landfarm,” “Landfarm applicator,” “Landfarming,” “Landfarm plot,” “Landfarm season,” “Nonstandard PCS,” “Petroleum contaminated soil,” “Source of PCS,” “Standard PCS,” “Tar ball” and “Type of PCS” in rule **567—100.2(455B,455D)**:

“*Incorporation*” means to mix into the soil by tilling, disking, or other suitable means, thereby creating a loose and divided soil texture.

“*Landfarm*” means the area of land used to landfarm a single application of a particular source and type of PCS. Landfarms are created when a permitted landfarm applicator, or party under the applicator’s supervision, applies PCS to the land. No other PCS may be applied within 15 feet of the area of land used as a landfarm until the landfarm is closed pursuant to rule 567—120.12(455B).

“*Landfarm applicator*” means an entity permitted by the department to apply PCS to the land to create one or more landfarms.

“*Landfarming*” means a surface-level soil remediation technology for petroleum contaminated soils that reduces concentrations of petroleum constituents through biodegradation to a level safe for human health and the environment. This technology usually involves spreading excavated contaminated soils in a thin layer on the ground surface and stimulating aerobic microbial activity within the soils through aeration. The enhanced microbial activity results in degradation of adsorbed petroleum product constituents through microbial respiration. Some petroleum product constituents volatilize during the landfarming process.

“*Landfarm plot*” means the specific operating area of a landfarm upon which a particular source and type of PCS is applied.

“*Landfarm season*” means the period of the year when the ground is not frozen or snow-covered and runoff from these situations is not expected to transport PCS beyond the landfarm area.

“*Nonstandard PCS*” means soil contaminated with a petroleum product other than gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

“*Petroleum contaminated soil*” or “*PCS*” means soil contaminated with petroleum products including, but not limited to, gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

“*Source of PCS*” means the contaminated area from which the PCS originated. Examples of a source include, but are not limited to, a specific gas station or spill location.

“*Standard PCS*” means soil contaminated with gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

“*Tar ball*” means a ball or conglomeration of tarlike petroleum constituents. Tar balls may form when PCS that contains a high concentration of long-chain or high molecular weight hydrocarbons is landfarmed.

“*Type of PCS*” means the specific petroleum product or combination thereof that contaminated the soil. Examples of type include, but are not limited to, gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

ITEM 6. Rescind and reserve rule **567—100.3(17A,455B)**.

ITEM 7. Rescind and reserve rule **567—100.5(455B)**.

ITEM 8. Amend **567—Chapter 102**, title, as follows:

PERMITS AND RULES OF PRACTICE

ITEM 9. Amend paragraph **102.2(1)“a”** as follows:

a. Applications for renewal to be timely filed must be received at the department’s office at least 90 days before the expiration date of the existing permit. For application forms, see 567—100.3(17A,455B) on a form provided by the department.

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ITEM 10. Amend subrule 102.3(1) as follows:

102.3(1) *Application requirements for permits and renewals.* See ~~567—100.3(17A,455B)~~ More information can be found in subrule 102.2(1).

ITEM 11. Adopt the following new rule 567—102.15(455B):

567—102.15(455B) Solid waste incinerator operator certification. Solid waste incinerator operators shall be trained, tested, and certified by a department-approved certification program.

102.15(1) A solid waste incinerator operator shall be on duty during all hours of operation of a solid waste incinerator, consistent with the respective certification.

102.15(2) To become a certified operator, an individual shall complete a basic operator training course that has been approved by the department or alternative, equivalent training approved by the department and shall pass a departmental examination as specified by this rule. An operator certified by another state may have reciprocity subject to approval by the department.

102.15(3) A solid waste incinerator operator certification is valid from the date of issuance until June 30 of the following even-numbered year.

102.15(4) Basic operator training course. The required basic operator training course for a certified solid waste incinerator operator shall have at least 12 contact hours and shall address the following areas, at a minimum:

- a. Description of types of wastes;
- b. Incinerator design;
- c. Interpreting and using engineering plans;
- d. Incinerator operations;
- e. Environmental monitoring;
- f. Applicable laws and regulations;
- g. Permitting processes;
- h. Incinerator maintenance; and
- i. Ash and residue disposal.

102.15(5) Alternative basic operator training must be approved by the department. It shall be the applicant's responsibility to submit any documentation the department may require to evaluate the equivalency of alternative training.

102.15(6) Fees.

- a. The examination fee for each examination is \$20.
- b. The initial certification fee is \$8 for each one-half year of a two-year period from the date of issuance to June 30 of the next even-numbered year.
- c. The certification renewal fee is \$24.
- d. The penalty fee is \$12.

102.15(7) Examinations.

a. The operator certification examinations will be based on the basic operator training course curriculum.

b. All persons wishing to take the examination required to become a certified operator of a solid waste incinerator shall complete the Operator Certification Examination Application, Form 542-1354. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate the basic operator training course taken. Evidence of training course completion must be submitted with the application for certification. The completed application and the application fee shall be sent to the Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319. Application for examination must be received by the department at least 30 days prior to the date of examination.

c. A properly completed application for examination shall be valid for one year from the date the application is approved by the department.

d. Upon failure of the first examination, the applicant may be reexamined at the next scheduled examination. Upon failure of the second examination, the applicant shall be required to wait a period of 180 days before taking a subsequent examination.

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e. Upon each reexamination when a valid application is on file, the applicant shall submit to the department the examination fee at least ten days prior to the date of examination.

f. Failure to successfully complete the examination within one year from the date of approval of the application shall invalidate the application.

g. Completed examinations will be retained by the department for a period of one year, after which they will be destroyed.

h. Oral examinations may be given at the discretion of the department.

102.15(8) Certification.

a. All operators who passed the operator certification examination by July 1, 1991, are exempt from taking the required operator training course. Beginning July 1, 1991, all operators will be required to take the basic operator training course and pass the examination in order to become certified.

b. Application for certification must be received by the department within 30 days of the date the applicant receives notification of successful completion of the examination. All applications for certification shall be made on a form provided by the department and shall be accompanied by the certification fee.

c. Applications for certification by examination that are received more than 30 days but less than 60 days after notification of successful completion of the examination shall be accompanied by the certification fee and the penalty fee. Applicants who do not apply for certification within 60 days of notice of successful completion of the examination will not be certified on the basis of that examination.

d. For applicants who have been certified under other state mandatory certification programs, the equivalency of which has been previously reviewed and accepted by the department, certification without examination will be recommended.

e. For applicants who have been certified under voluntary certification programs in other states, certification will be considered. The applicant must have successfully completed a basic operator training course and an examination generally equivalent to the Iowa examination. The department may require the applicant to successfully complete the Iowa examination.

f. Applicants who seek Iowa certification pursuant to paragraph 102.15(8) "d" or 102.15(8) "e" shall submit an application for examination accompanied by a letter requesting certification pursuant to this subrule. Application for certification pursuant to this subrule shall be received by the department in accordance with paragraphs 102.15(8) "b" and 102.15(8) "c."

102.15(9) All certificates shall expire every two years, on even-numbered years, and must be renewed every two years to maintain certification. The renewal application and fee are due prior to expiration of certification.

a. Late application for renewal of a certificate may be made provided that such late application shall be received by the department or postmarked within 30 days of the expiration of the certificate. Such late application shall be on forms provided by the department and accompanied by the penalty fee and the certification renewal fee.

b. If a certificate holder fails to apply for renewal within 30 days following expiration of the certificate, the right to renew the certificate automatically terminates. Certification may be allowed at any time following such termination, provided that the applicant successfully completes an examination. The applicant must then apply for certification in accordance with subrule 102.15(8).

c. An operator shall not continue to operate a solid waste incinerator after expiration of a certificate without renewal thereof.

d. Continuing education credits must be earned during the two-year certification period. All certified operators must earn ten contact hours per certificate during each two-year period. The two-year period will begin upon certification.

e. Only those operators fulfilling the continuing education requirements before the end of each two-year period will be allowed to renew their certificates. The certificates of operators not fulfilling the continuing education requirements shall be void upon expiration, unless an extension is granted.

f. All activities for which continuing education credit will be granted must be related to the subject matter of the particular certificate to which the credit is being applied.

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g. The department may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to three months within which the applicant may fulfill the minimum continuing education requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator that prevent attendance at the required activities. All requests for extensions must be made 60 days prior to expiration of certification.

h. The certified operator is responsible for notifying the department of the continuing education credits earned during the period. The continuing education credits earned during the period shall be shown on the application for renewal.

i. A certified operator shall be deemed to have complied with the continuing education requirements of this rule during periods that the operator serves honorably on active duty in the military service; or during periods that the operator is a resident of another state or district having a continuing education requirement for operators and meets all the requirements of that state or district for practice there; or during periods that the person is a government employee working as an operator and is assigned to duty outside of the United States; or during other periods of active practice and absence from the state approved by the department.

102.15(10) Discipline of certified operators.

a. Disciplinary action may be taken on any of the following grounds:

(1) Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. Duties of certified operators include compliance with rules and permit conditions applicable to incinerator operation.

(2) Failure to submit required records of operation or other reports required under applicable permits or rules of the department, including failure to submit complete records or reports.

(3) Knowingly making any false statement, representation, or certification on any application, record, report, or document required to be maintained or submitted under any applicable permit or rule of the department.

b. Disciplinary sanctions allowable are as follows:

(1) Revocation of a certificate.

(2) Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional education or training or reexamination may be required as a condition of probation.

c. The procedure for discipline is as follows:

(1) The department shall initiate disciplinary action. The commission may direct that the department investigate any alleged factual situation that may be grounds for disciplinary action under paragraph 102.15(10) "a" and report the results of the investigation to the commission.

(2) A disciplinary action may be prosecuted by the department.

(3) Written notice shall be given to an operator against whom disciplinary action is being considered. The notice shall state the informal and formal procedures available for determining the matter. The operator shall be given 20 days to present any relevant facts and indicate the operator's position in the matter and to indicate whether informal resolution of the matter may be reached.

(4) An operator who receives notice shall communicate verbally, in writing, or in person with the department, and efforts shall be made to clarify the respective positions of the operator and department.

(5) The applicant's failure to communicate facts and positions relevant to the matter by the required date may be considered when appropriate disciplinary action is determined.

(6) If agreement as to appropriate disciplinary sanction, if any, can be reached with the operator and the commission concurs, a written stipulation and settlement between the department and the operator shall be entered into. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the operator, and the reasons for the particular sanctions imposed.

(7) If an agreement as to appropriate disciplinary action, if any, cannot be reached, the department may initiate formal hearing procedures. Notice and formal hearing shall be in accordance with 561—Chapter 7 related to contested and certain other cases pertaining to licensee discipline.

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102.15(11) Upon revocation of a certificate, application for certification may be allowed after two years from the date of revocation. Any such applicant must successfully complete an examination and be certified in the same manner as a new applicant.

102.15(12) A temporary operator of a solid waste incinerator may be designated for a period of six months when an existing certified operator is no longer available to the facility. The facility must make application to the department, explain why a temporary certification is needed, identify the temporary operator, and identify the efforts that will be made to obtain a certified operator. A temporary operator designation shall not be approved for greater than a six-month period except for extenuating circumstances. In any event, not more than one six-month extension to the temporary operator designation may be granted. Approval of a temporary operator designation may be rescinded for cause as set forth in subrule 102.15(10).

This rule is intended to implement Iowa Code section 455B.304(12).

ITEM 12. Adopt the following new rule 567—102.16(455B):

567—102.16(455B) Disruption and excavation of sanitary landfills or closed dumps. No person shall excavate, disrupt, or remove any deposited material from any active or discontinued sanitary landfill or closed dump without first having notified the department in writing.

102.16(1) Notification shall include an operational plan stating the area involved, lines and grades defining limits of excavation, estimated number of cubic yards of material to be excavated, sanitary disposal project where material is to be disposed, and estimated time required for excavation procedures.

102.16(2) An excavation shall be confined to an area consistent with the number of pieces of digging equipment and trucks used for haulage.

102.16(3) The disposal of all solid waste resulting from excavation shall be in conformity with Iowa Code chapter 455B and applicable solid or hazardous waste regulations.

This rule is intended to implement Iowa Code section 455B.304.

ITEM 13. Adopt the following new implementation sentence in **567—Chapter 102**:
These rules are intended to implement Iowa Code sections 455B.304 and 455B.305.

ITEM 14. Rescind and reserve **567—Chapter 104**.

ITEM 15. Amend paragraph **114.3(1)“a”** as follows:

a. Applications for renewal shall be received at the department office at least 90 days before the expiration date of the existing permit. ~~For application forms, see 567—100.3(17A,455B) on a form provided by the department.~~

ITEM 16. Amend subrule 114.4(1) as follows:

114.4(1) *Application requirements for permits and renewals.* ~~See 567—100.3(17A,455B)~~ More information can be found in 567—subrule 102.2(1).

ITEM 17. Amend rule 567—114.29(455B), introductory paragraph, as follows:

567—114.29(455B) Operator certification. Sanitary landfill operators ~~and solid waste incinerator operators~~ shall be trained, tested, and certified by a department-approved certification program.

ITEM 18. Amend subrule 114.29(1) as follows:

114.29(1) A sanitary landfill operator ~~or a solid waste incinerator operator~~ shall be on duty during all hours of operation of a sanitary landfill ~~or solid waste incinerator~~, consistent with the respective certification.

ITEM 19. Amend subrules 114.29(3) and 114.29(4) as follows:

114.29(3) A sanitary landfill operator certification ~~or solid waste incinerator operator certification~~ is valid until June 30 of the following even-numbered year.

114.29(4) Basic operator training course.

~~a.~~ The required basic operator training course for a certified sanitary landfill operator will have at least 25 contact hours and will address the following areas, at a minimum:

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- (1) a. Description of types of wastes;
- (2) b. Interpreting and using engineering plans;
- (3) c. Construction surveying techniques;
- (4) d. Waste decomposition processes;
- (5) e. Geology and hydrology;
- (6) f. Landfill design;
- (7) g. Landfill operation;
- (8) h. Environmental monitoring;
- (9) i. Applicable laws and regulations;
- (10) j. Permitting processes;
- (11) k. Leachate control and treatment.

~~b. The required basic operator training course for a certified solid waste incinerator operator will have at least 12 contact hours and will address the following areas, at a minimum:~~

- (1) ~~Description of types of wastes;~~
- (2) ~~Incinerator design;~~
- (3) ~~Interpreting and using engineering plans;~~
- (4) ~~Incinerator operations;~~
- (5) ~~Environmental monitoring;~~
- (6) ~~Applicable laws and regulations;~~
- (7) ~~Permitting processes;~~
- (8) ~~Incinerator maintenance;~~
- (9) ~~Ash and residue disposal.~~

ITEM 20. Amend paragraph **114.29(7)“b”** as follows:

b. All persons wishing to take the examination required to become a certified operator of a sanitary landfill ~~or a solid waste incinerator~~ shall complete the Operator Certification Examination Application, Form 542-1354. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate the basic operator training course taken. Evidence of training course completion must be submitted with the application for certification. The completed application and the application fee shall be sent to the director and addressed to the central office in Des Moines. Application for examination must be received by the department at least 30 days prior to the date of examination.

ITEM 21. Amend paragraph **114.29(9)“c”** as follows:

c. An operator may not continue to operate a sanitary landfill ~~or solid waste incinerator~~ after expiration of a certificate without renewal thereof.

ITEM 22. Amend subparagraph **114.29(10)“a”(1)** as follows:

(1) Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. Duties of certified operators include compliance with rules and permit conditions applicable to sanitary landfill ~~or incinerator~~ operation.

ITEM 23. Amend subrule 114.29(12) as follows:

114.29(12) A temporary operator of a sanitary landfill ~~or solid waste incinerator~~ may be designated for a period of six months when an existing certified operator is no longer available to the facility. The facility must make application to the department, explain why a temporary certification is needed, identify the temporary operator, and identify the efforts which will be made to obtain a certified operator. A temporary operator designation shall not be approved for greater than a six-month period except for extenuating circumstances. In any event, not more than one six-month extension to the temporary operator designation may be granted. Approval of a temporary operator designation may be rescinded for cause as set forth in 114.29(10).

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ITEM 24. Amend paragraph **115.3(1)“a”** as follows:

a. Applications for renewal must be received at the department office at least 90 days before the expiration date of the existing permit. ~~For application forms, see 567—100.3(17A,455B) on a form provided by the department.~~

ITEM 25. Amend subrule 115.4(1) as follows:

115.4(1) *Application requirements for permits and renewals.* ~~See 567—100.3(17A,455B) More information can be found in 567—subrule 102.2(1).~~

ITEM 26. Amend rule 567—115.29(455B), introductory paragraph, as follows:

567—115.29(455B) Operator certification. Sanitary landfill operators ~~and solid waste incinerator operators~~ shall be trained, tested, and certified by a department-approved certification program.

ITEM 27. Amend subrule 115.29(1) as follows:

115.29(1) A sanitary landfill operator ~~or a solid waste incinerator operator~~ shall be on duty during all hours of operation of a sanitary landfill ~~or solid waste incinerator~~, consistent with the respective certification.

ITEM 28. Amend subrules 115.29(3) and 115.29(4) as follows:

115.29(3) A sanitary landfill operator certification ~~or solid waste incinerator operator certification~~ is valid until June 30 of the following even-numbered year.

115.29(4) Basic operator training course.

~~a.~~ The required basic operator training course for a certified sanitary landfill operator will have at least 25 contact hours and will address the following areas, at a minimum:

- ~~(1) a.~~ Description of types of wastes;
- ~~(2) b.~~ Interpreting and using engineering plans;
- ~~(3) c.~~ Construction surveying techniques;
- ~~(4) d.~~ Waste decomposition processes;
- ~~(5) e.~~ Geology and hydrology;
- ~~(6) f.~~ Landfill design;
- ~~(7) g.~~ Landfill operation;
- ~~(8) h.~~ Environmental monitoring;
- ~~(9) i.~~ Applicable laws and regulations;
- ~~(10) j.~~ Permitting processes;
- ~~(11) k.~~ Leachate control and treatment;

~~b.~~ The required basic operator training course for a certified solid waste incinerator operator will have at least 12 contact hours and will address the following areas, at a minimum:

- ~~(1) Description of types of wastes;~~
- ~~(2) Incinerator design;~~
- ~~(3) Interpreting and using engineering plans;~~
- ~~(4) Incinerator operations;~~
- ~~(5) Environmental monitoring;~~
- ~~(6) Applicable laws and regulations;~~
- ~~(7) Permitting processes;~~
- ~~(8) Incinerator maintenance;~~
- ~~(9) Ash and residue disposal.~~

ITEM 29. Amend paragraph **115.29(7)“b”** as follows:

b. All persons wishing to take the examination required to become a certified operator of a sanitary landfill ~~or a solid waste incinerator~~ shall complete the Operator Certification Examination Application, Form 542-1354. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate the basic operator training course taken. Evidence of training course completion must be submitted with the application for certification. The completed application and the application fee shall be sent to the director and addressed to the central

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office in Des Moines. Application for examination must be received by the department at least 30 days prior to the date of examination.

ITEM 30. Amend subparagraph **115.29(10)“a”(1)** as follows:

(1) Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. Duties of certified operators include compliance with rules and permit conditions applicable to sanitary landfill or incinerator operation.

ITEM 31. Amend subrule 115.29(12) as follows:

115.29(12) A temporary operator of a sanitary landfill ~~or solid waste incinerator~~ may be designated for a period of six months when an existing certified operator is no longer available to the facility. The facility must make application to the department, explain why a temporary certification is needed, identify who the temporary operator will be, and identify the efforts which will be made to obtain a certified operator. A temporary operator designation shall not be approved for greater than a six-month period except for extenuating circumstances. In any event, not more than one six-month extension to the temporary operator designation may be granted. Approval of a temporary operator designation may be rescinded for cause as set forth in 115.29(10).

ITEM 32. Adopt the following new subrule 120.2(4):

120.2(4) These rules do not apply to hazardous waste.

ITEM 33. Amend rule 567—120.3(455B) as follows:

567—120.3(455B) Definitions. ~~In addition to the~~ The definitions set out in Iowa Code section 455B.301, ~~which shall be considered to be incorporated by reference in these rules, the following definitions shall apply.~~ For the purposes of this chapter, the definitions found in 567—Chapter 100 shall apply.

~~“High water table” means the position of the water table that occurs in the spring in years of normal or above-normal precipitation.~~

~~“Incorporation” means to mix into the soil by tilling, disking, or other suitable means, thereby creating a loose and divided soil texture.~~

~~“Landfarm” means a surface-level soil remediation technology for petroleum-contaminated soils that reduces concentrations of petroleum constituents through biodegradation to a level safe for human health and the environment. This technology usually involves spreading excavated contaminated soils in a thin layer on the ground surface and stimulating aerobic microbial activity within the soils through aeration. The enhanced microbial activity results in degradation of adsorbed petroleum product constituents through microbial respiration. Some petroleum product constituents volatilize during the landfarming process. There are two types of landfarm permits issued by the department: a multiuse landfarm permit and a single-use landfarm applicator permit.~~

~~“Landfarm plot” means the specific operating area of a landfarm upon which a particular source and type of PCS is applied. A landfarm plot is a subset of the operating area.~~

~~“Landfarm season” means the time period beginning April 1 and ending October 31 of each year.~~

~~“Multiuse landfarm” means a landfarm used for more than one application of PCS. Each application of a particular source and type of PCS is landfarmed in separate landfarm plots. After the PCS is remediated, the landfarming process may be repeated. A multiuse landfarm is not located at a sanitary landfill.~~

~~“Nonstandard PCS” means soil contaminated with a petroleum product other than gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.~~

~~“Operating area” means the total aggregate area of the landfarm where PCS is applied. The operating area of a multiuse landfarm may include multiple landfarm plots.~~

~~“Petroleum-contaminated soil” or “PCS” means soil contaminated with petroleum products including, but not limited to, gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.~~

~~“Single-use landfarm” means the area of land used to landfarm a single application of a particular source and type of PCS. Single-use landfarms are created when a single-use landfarm applicator, or the landfarm’s supervised agent, land applies PCS. No other PCS may be applied within 15 feet of~~

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~~the area of land used as a single-use landfarm until the single-use landfarm is closed pursuant to rule 567—120.12(455B).~~

~~“Single-use landfarm applicator” means an entity permitted by the department to land apply PCS to create one or more single-use landfarms.~~

~~“Source of PCS” means the contaminated area from which the PCS originated. Examples of a source include, but are not limited to, a specific gas station or spill location.~~

~~“Standard PCS” means soil contaminated with gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.~~

~~“Tar ball” means a ball or conglomeration of tarlike petroleum constituents. Tar balls may form when PCS that contains a high concentration of long-chain or high molecular weight hydrocarbons is landfarmed.~~

~~“Type of PCS” means the specific petroleum product or combination thereof that contaminated the soil. Examples of type include, but are not limited to, gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.~~

~~“Water table” means the water surface below the ground at which the unsaturated zone ends and the saturated zone begins.~~

ITEM 34. Amend rule 567—120.4(455B) as follows:

567—120.4(455B) Landfarming applicator permits.

120.4(1) Permit required. PCS shall not be landfarmed without a landfarm applicator permit from the department.

120.4(2) Types of landfarm permits Landfarm applicator permit. The department issues two types of landfarm permits as follows:

a. ~~Multiuse landfarm permit.~~ A multiuse landfarm permit is issued for a landfarm designed to be used for more than one application of PCS. This permit requires that each application of a particular source and type of PCS be landfarmed in separate landfarm plots. If a facility has a multiuse landfarm permit, then the landfarming process may be repeated after the PCS has been remediated. A multiuse landfarm permit is not for a facility located at a sanitary landfill.

b. Single-use landfarm applicator permit. A single-use Upon issuance of a landfarm applicator permit is issued to an entity that is then permitted by the department to land, the permit holder is authorized to apply PCS to the land to create one or more single-use landfarms. This permit requires that single-use landfarms be used for only one application of a particular source and type of PCS. This permit requires that no other PCS be applied within 15 feet of the area of land used as a single-use landfarm until the single-use landfarm is closed pursuant to rule 567—120.12(455B).

120.4(3) Construction and operation. ~~All landfarms~~ Landfarms shall be constructed and operated according to these rules, any plans and specifications approved by the department, and the conditions of the permit. Any approved plans and specifications shall constitute a condition of the permit.

120.4(4) Transfer of title and permit. If title to a ~~type of~~ landfarm applicator permit is transferred to a third party, then the department shall transfer the permit within 60 days if the department has determined that the following requirements have been met:

a. No change.

b. The permitted ~~facility~~ applicator and title transferee are in compliance with Iowa Code chapter 455B, this chapter and the conditions of the permit.

120.4(5) No change.

120.4(6) Effect of revocation. If a landfarm applicator permit held by any public or private agency is revoked by the department, then no new landfarm applicator permit shall be issued to that agency for a ~~period~~ minimum of one year from the date of revocation the facility was brought into full compliance with the revocation order. Such revocation shall not prohibit the issuance of a permit for the same landfarm project to another ~~public or private agency~~ landfarm application permit holder.

120.4(7) Inspection of site and operation. ~~The~~ By obtaining an applicator permit, the permitted entity agrees that the department may inspect the facility and its operations at reasonable times to determine if the landfarm is in compliance with this chapter and the permit requirements.

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120.4(8) Duration of permits. Landfarm applicator permits shall be issued and may be renewed for a three-year term.

120.4(9) to 120.4(11) No change.

ITEM 35. Rescind subrule **120.5(1)**.

ITEM 36. Renumber subrules **120.5(2)** and **120.5(3)** as **120.5(1)** and **120.5(2)**.

ITEM 37. Amend renumbered subrule 120.5(1) as follows:

120.5(1) ~~Single-use landfarm~~ Landfarm applicator permits. To apply for a ~~single-use~~ landfarm applicator permit, the applicant shall submit the following information to the department:

a. The name, address, and telephone number of:

(1) Agency applying for the ~~single-use~~ landfarm applicator permit.

(2) to (4) No change.

b. to d. No change.

ITEM 38. Amend subrule 120.6(3) as follows:

120.6(3) Tar balls. PCS that has the potential to produce tar balls shall not be landfarmed ~~at a single-use or multiuse landfarm~~. Such PCS may be disposed of in a sanitary landfill pursuant to 567—Chapter 109.

ITEM 39. Amend subrule 120.7(1) as follows:

120.7(1) Previous use. ~~If the a site is to be used as a single-use landfarm, then the single-use landfarm applicator shall obtain written confirmation from the site owner of one of the following requirements:— This subrule shall not apply to land utilized as a landfarm prior to October 20, 2004.~~

a. That any other landfarm created in the past three years within 15 feet of the proposed ~~operating area~~ landfarm plot has been closed pursuant to rule 567—120.12(455B).

b. That no area within 15 feet of the proposed ~~operating area~~ landfarm plot has been used as a landfarm in the past three years.

ITEM 40. Amend subrule 120.7(2) as follows:

120.7(2) Wells. PCS shall not be landfarmed or stored within 500 feet of a well that is being used or could be used for human or livestock consumption. ~~Groundwater monitoring wells installed pursuant to paragraph 120.8(2)“c” are exempt from this requirement.~~ The department may also exempt from this requirement extraction wells utilized as part of a remediation system. PCS shall not be landfarmed or stored within 500 feet of an agricultural drainage well.

ITEM 41. Rescind subrule **120.7(4)**.

ITEM 42. Renumber subrules **120.7(5)** to **120.7(10)** as **120.7(4)** to **120.7(9)**.

ITEM 43. Amend renumbered subrule 120.7(5) as follows:

120.7(5) Tile lines. PCS shall not be landfarmed or stored within 200 feet of a tile line surface intake. ~~A multiuse landfarm shall not be located on land that has been tiled. The absence of tile lines shall be verified by written confirmation from the landowner and a visual inspection of the property.~~

ITEM 44. Amend renumbered subrule 120.7(9) as follows:

120.7(9) Soil properties for ~~operating area~~ landfarm plot. All soils in the ~~operating area~~ landfarm plot of the landfarm shall comply with the following requirements:

a. *USDA textural soil classification.*

(1) ~~Multiuse landfarms.~~ Soils in the ~~operating area~~ of ~~multiuse landfarms~~ shall be silty clay, silt clay loam, clay loam, loam, or silt loam as classified by the USDA Textural Classification Chart for soils.

(2) ~~Single-use landfarms.~~ Soils in the ~~operating area~~ landfarm plot of ~~single-use~~ landfarms shall be clay, sandy clay, sandy clay loam, sandy loam, silty clay, silt clay loam, clay loam, loam, or silt loam as classified by the USDA Textural Classification Chart for soils.

b. *Stones and debris.* Soils in the ~~operating area~~ landfarm plot shall be free of stones and debris larger than 4 inches in diameter.

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c. Soil pH. Soils in the ~~operating area~~ landfarm plot shall have a pH greater than or equal to 6 and less than or equal to 9.

d. Bedrock separation. The ~~operating area~~ landfarm plot shall have a minimum of 6 feet of soil over bedrock.

ITEM 45. Rescind and reserve subrule **120.8(2)**.

ITEM 46. Amend rule 567—120.9(455B), introductory paragraph, as follows:

567—120.9(455B) Landfarm operating requirements. All ~~multiuse and single-use~~ landfarms shall comply with the following operating requirements:

ITEM 47. Amend subrules 120.9(2) to 120.9(5) as follows:

120.9(2) Saturated, ~~or slurry, or flammable~~ PCS. PCS in a saturated, or slurry, ~~or flammable~~ condition shall not be ~~land~~ applied to the land or stored at a landfarm. PCS in such a condition shall be bulked with other biodegradable materials (e.g., compost, mulch) until it is no longer saturated, or in a slurry, ~~or flammable~~ before it is ~~land~~ applied to the land or stored at a landfarm.

120.9(3) PCS delivery and storage. Only PCS that is from an emergency cleanup may be delivered during the non-landfarm season. PCS delivered during non-landfarm season may be stored as follows until the conditions of subrule 120.9(4) are satisfied or within the first seven days of landfarm season, whichever is shorter. PCS that cannot immediately be ~~land~~ applied to the land at the landfarm during landfarm season may be stored at the landfarm as follows. ~~PCS delivered during non-landfarm season may be stored until the conditions of subrule 120.9(4) are satisfied or within the first seven days of landfarm season, whichever is shorter.~~

a. Seven days or less. PCS may be stored up to seven days in compliance with the following requirements:

- (1) Over an impervious surface (e.g., tarp, concrete pad, plastic sheeting).
- (2) Under a roof or tarp to minimize the infiltration of precipitation.
- (3) In an area with minimal potential for stormwater run-on.

b. Extended storage time. No PCS shall be stored longer than seven days during landfarm season without written permission from the department field office that has jurisdiction over the landfarm.

120.9(4) PCS application weather and landfarm season.

a. PCS shall only be ~~land~~ applied to the land during non-landfarm season if the PCS must be ~~land~~ applied to the land as part of an emergency cleanup supervised by the department pursuant to subrule 120.6(1), or all of the following conditions exist:

- (1) The ~~operating area~~ landfarm plot is free of snow.
- (2) The slope of the ~~operating area~~ landfarm plot is less than 3 percent.
- (3) The PCS is incorporated into the soil as soon as site conditions allow.

b. PCS shall not be ~~land~~ applied to the land during precipitation.

120.9(5) One application, source and type of PCS per plot. One application of a particular source and type of PCS may be applied to a landfarm plot. A landfarm may only apply a subsequent application of PCS to a previously utilized landfarm plot if such application is in compliance with the following:

~~*a.—Multiuse landfarms.* A subsequent application of a particular source and type of PCS may be applied to a previously utilized landfarm plot in a multiuse landfarm after the following requirements have been met:~~

~~(2) The PCS turning requirement of subrule 120.9(10) has been completed.~~

~~(1) *a.* The plot has been tested pursuant to subparagraphs 120.6(2)“c”(1), (2), and (3), and the results demonstrate that petroleum constituent concentrations are less than 0.54 mg/kg for benzene, 42 mg/kg for toluene, 15 mg/kg for ethylbenzene, 3800 mg/kg for TEH-diesel, and 0.02 mg/kg for MTBE.~~

b. Single-use landfarms. A subsequent application of a particular source and type of PCS may not be applied within 15 feet of an area used as a single-use landfarm until the single-use landfarm is closed pursuant to subrule 120.12(2).

ITEM 48. Amend subrule 120.9(11) as follows:

120.9(11) No crops for consumption.

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~~a. Multiuse landfarms shall not grow crops for human or livestock consumption within 15 feet of the operating area until the landfarm is closed pursuant to subrule 120.12(1).~~

b. ~~Single-use landfarms~~ Landfarms shall not grow crops within 15 feet of a landfarm plot that is flagged pursuant to subrule 120.9(7). Crops for human and livestock consumption may be grown at a single-use landfarm after the landfarm plot is no longer required to be flagged pursuant to subrule 120.9(7).

ITEM 49. Rescind subrule **120.9(12)**.

ITEM 50. Renumber subrule **120.9(13)** as **120.9(12)**.

ITEM 51. Amend renumbered paragraph **120.9(12)“b”** as follows:

b. The results of the tests in paragraph ~~120.12(1)“a”~~ 120.12(2)“a” demonstrate that petroleum constituent concentrations for benzene, toluene, ethylbenzene, TEH-diesel, and MTBE are below the detection limits required by 567—Chapter 135.

ITEM 52. Amend subrule 120.10(1) as follows:

120.10(1) Access. Emergency response and remedial action plan (ERRAP) documents shall be readily available. ~~Multiuse landfarms shall maintain a copy of the ERRAP on site (e.g., the back of permit sign, fence post, or mailbox).~~ Single-use landfarm Landfarm applicators shall have employees carry a copy of the ERRAP document to each site where operations are taking place.

ITEM 53. Amend subrule 120.11(1) as follows:

120.11(1) Reporting. The following information shall be submitted to the department on a form provided by the department. All reporting submissions shall include the name, address, and telephone number of the landfarm and permit holder, as well as the permit number.

a. *Storage notification.* ~~Multiuse and single-use landfarms~~ Landfarms shall submit the following information to the department and department field office with jurisdiction over the landfarm before receipt of the PCS for storage; however, at least 30 days' notification is encouraged. PCS storage information from an emergency cleanup supervised by the department pursuant to subrule 120.6(1), however, shall be reported within 7 days of the emergency cleanup.

(1) to (3) No change.

b. *Land application notification.* ~~Multiuse and single-use landfarms~~ Landfarms shall submit the following information to the department and department field office with jurisdiction over the landfarm before land application; however, at least 30 days' notification is encouraged. PCS information from an emergency cleanup supervised by the department pursuant to subrule 120.6(1), however, shall be reported within 7 days of the emergency cleanup.

(1) The date the PCS is expected to be ~~land~~ applied to the land. If the PCS is not applied on this date, the department shall be informed of the actual application date.

(2) ~~Single-use landfarms shall submit an~~ A physical address, or parcel identification number for the landfarm location, a legible topographic map or aerial photo, a USDA soil map with key, and a map of the 100-year flood plain illustrating and labeling where the PCS is to be applied. ~~Multiuse landfarms shall report the landfarm plot(s) to which the PCS is to be applied.~~

(3) Application rate calculations pursuant to subrule 120.9(6).

(4) The spill number, UST registration number, and LUST number, as applicable.

c. *PCS analysis and characterization.* Information on the analysis and characterization of the PCS pursuant to rule 567—120.6(455B) shall be submitted to the department before receipt of the PCS for storage or land application; however, at least 30 days' notification is encouraged. PCS analysis and characterization information from an emergency cleanup supervised by the department pursuant to subrule 120.6(1), however, shall be reported within 60 days of the emergency cleanup.

~~d. Groundwater monitoring well results.~~ Multiuse landfarms shall annually test all groundwater monitoring wells as follows. ~~A laboratory certified pursuant to 567—Chapter 83 for UST petroleum analyses shall test the samples. Test results for each well at a multiuse landfarm shall be submitted to the department by the first workday in January of each year.~~

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(1) ~~BTEX testing.~~ The groundwater monitoring wells shall be tested for benzene, toluene, ethylbenzene, and xylene (BTEX). The BTEX analysis shall utilize the most recent version of Method OA-1 (GCMS), "Method for Determination of Volatile Petroleum Hydrocarbons (Gasoline)," University of Iowa Hygienic Laboratory.

(2) ~~TEH diesel and waste oil testing.~~ The groundwater monitoring wells shall be tested for total extractable hydrocarbons (TEH diesel and waste oil). The TEH diesel and waste oil analyses shall utilize the most recent version of Method OA-2, "Extractable Petroleum Products (and Relatively Low Volatility Organic Compounds)," University of Iowa Hygienic Laboratory.

(3) ~~MTBE testing.~~ The groundwater monitoring wells shall be tested for MTBE unless prior analysis of PCS accepted for landfarming, pursuant to rule 567—135.15(455B), has shown that MTBE was not present in soil or groundwater of the source. A laboratory certified pursuant to 567—Chapter 83 for UST petroleum analyses shall test the samples. The analysis shall utilize one of the following methods:

1. The most recent version of Method OA-1 (GCMS), "Method for Determination of Volatile Petroleum Hydrocarbons (Gasoline)," University of Iowa Hygienic Laboratory.

2. U.S. Environmental Protection Agency (EPA) Method 8260B, SW-846, "Test Methods for Evaluating Solid Waste," Third Edition.

ITEM 54. Amend subrule 120.11(2), introductory paragraph, as follows:

120.11(2) Record keeping. All ~~landfarms~~ landfarm applicators shall maintain records of all information related to compliance with this chapter and the permit throughout the life of the landfarm and for three years after landfarm closure pursuant to rule 567—120.12(455B). This information shall be available to the department upon request. Applicable information includes, but is not limited to, the following material.

ITEM 55. Amend rule 567—120.12(455B) as follows:

567—120.12(455B) Landfarm closure. Unless otherwise required or approved by the department, landfarms shall be closed as follows: in one of the following ways:

~~**120.12(1) Multiuse landfarms.** Multiuse landfarms may be closed after groundwater monitoring well tests verify that down-gradient groundwater monitoring well results are within two standard deviations of the mean analyte concentrations, pursuant to paragraph 120.11(1) "d," in corresponding up-gradient monitoring wells for three consecutive years after the last application of PCS. Furthermore, prior to closure each landfarm plot shall be tested as follows. Closure is not official until verified in writing by the department.~~

~~*a.* One sample from each 10,000 ft² (e.g., 100-foot × 100-foot area) of landfarm plot is analyzed pursuant to subparagraphs 120.6(2) "c"(1), (2), and (3). A minimum of one sample per landfarm plot shall be obtained. All samples shall be obtained from between the top 2 to 6 inches of soil.~~

~~*b.* The results of the tests in paragraph 120.12(1) "a" demonstrate that petroleum constituent concentrations are less than 0.54 mg/kg for benzene, 42 mg/kg for toluene, 15 mg/kg for ethylbenzene, 3800 mg/kg for TEH diesel and 0.02 mg/kg for MTBE.~~

~~**120.12(2) 120.12(1) Single-use landfarms.** Three years after the application of PCS, or~~

~~**120.12(2)** Single-use landfarms are closed three years after the application of PCS, or at At least six months after the application of PCS when documentation has been submitted and acknowledged in writing by the department that each landfarm plot has been tested as follows.~~

~~*a.* and *b.* No change.~~

ITEM 56. Amend rule 567—120.13(455B,455D) as follows:

567—120.13(455B,455D) Financial assurance requirements for ~~multiuse and single-use~~ landfarms. The holder of a sanitary disposal project permit for a ~~multiuse or single-use~~ landfarm must obtain and submit a financial assurance instrument to the department in accordance with this rule. The financial assurance instrument shall provide monetary funds for the purpose of conducting closure activities at the operating area(s) landfarm plot(s) due to the permit holder's failure to properly close

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the site as required in accordance with rule 567—120.12(455B) within 30 days of permit suspension, termination, revocation, or expiration.

120.13(1) *No permit without financial assurance.* The department shall not issue or renew a permit to an owner or operator of a ~~multiuse or single-use~~ landfarm until a financial assurance instrument has been submitted to and approved by the department.

120.13(2) *Proof of compliance.* Proof of the establishment of the financial assurance instrument and compliance with this rule, including a current closure cost estimate, shall be submitted ~~by July 1, 2008,~~ ~~or~~ at the time of application for a permit for a ~~new multiuse or single-use~~ landfarm applicator permit. The owner or operator must provide continuous coverage for closure and submit proof of compliance, including an updated closure cost estimate, with each permit renewal thereafter until released from this requirement by the department.

120.13(3) *Financial assurance amounts required.* The estimate submitted to the department must be certified by a professional engineer and account for at least the following factors determined by the department to be minimal necessary costs for closure pursuant to rule 567—120.12(455B):

a. Third-party costs to conduct ~~groundwater and~~ soil sampling and properly clean all equipment and storage areas at the ~~operating area(s)~~ landfarm plot(s).

b. No change.

120.13(4) *Acceptable financial assurance instruments.* The financial assurance instrument shall be established in an amount equal to the cost estimate prepared in accordance with subrule 120.13(3) and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Financial assurance may be provided by cash in the form of a secured trust fund or local government dedicated fund, surety bond, letter of credit, or corporate or local government guarantee as follows:

a. and *b.* No change.

c. Surety bond. A surety bond must be written by a company authorized by the commissioner of insurance to do business in the state. The surety bond shall comply with the following:

(1) No change.

(2) The bond shall be specific to a particular landfarm owner or operator for the purpose of funding closure in accordance with rule 567—120.12(455B) and removing any stockpiled PCS that may remain at the site(s) due to the owner's or operator's failure to properly close the site within 30 days of permit suspension, termination, revocation, or expiration.

(3) No change.

d. to *f.* No change.

120.13(5) *Financial assurance cancellation and permit suspension.*

a. to *c.* No change.

d. The owner or operator shall perform proper closure within 30 days of the permit suspension. For the purpose of this rule, "proper closure" means completion of all items pursuant to rule 567—120.12(455B) and subrule 120.13(3).

e. to *g.* No change.

[Filed 3/23/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6986C**LABOR SERVICES DIVISION[875]****Adopted and Filed****Rule making related to five-year rules review**

The Labor Commissioner hereby amends Chapter 1, “Description of Organization and Procedures Before the Division,” Chapter 3, “Posting, Inspections, Citations and Proposed Penalties,” Chapter 4, “Recording and Reporting Occupational Injuries and Illnesses,” Chapter 9, “Discrimination Against Employees,” Chapter 10, “General Industry Safety and Health Rules,” Chapter 29, “Sanitation and Shelter Rules for Railroad Employees,” Chapter 160, “Employer Requirements Relating to Non-English Speaking Employees,” Chapter 169, “General Requirements for Athletic Events,” Chapter 176, “Professional Kickboxing,” Chapter 215, “Minimum Wage Scope and Coverage,” Chapter 216, “Records to Be Kept by Employers,” Chapter 217, “Wage Payments,” and Chapter 220, “Application of the Fair Labor Standards Act to Employees of State and Local Governments,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 91.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 88, 90A, 91, 91D and 91E.

Purpose and Summary

This rule making adopts amendments based on the Division of Labor Services’ five-year rules review.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 28, 2022, as **ARC 6771C**. No public comments were received. One minor change relating to the adoption of kickboxing rules by reference in Item 20 was requested and approved by Jack Ewing, Administrative Code Editor.

Adoption of Rule Making

This rule making was adopted by the Commissioner on March 28, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 1.12(1) as follows:

1.12(1) *Filing a request.* A request for access to a record may be sent to the division at ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa 50319, or ~~open.records@iwd.iowa.gov~~ submitted at open.records@iwd.iowa.gov or iowaopenrecords.nextrequest.com. A request for access may be sent via facsimile to (515)281-7995 or may be delivered to the division's office at 150 Des Moines Street, Des Moines, Iowa. If a request for access to a record is misdirected, division personnel will promptly forward the request to the appropriate person within the division.

ITEM 2. Amend rule 875—1.71(17A) as follows:

875—1.71(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this ~~division chapter~~. However, the division in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

ITEM 3. Amend subrule 1.85(6) as follows:

1.85(6) “Good cause” for purposes of this rule shall have the same meaning as “good cause” for setting aside a default judgment under Iowa Rule of Civil Procedure ~~236~~ 1.977.

ITEM 4. Amend subrules 3.22(1) and 3.22(2) as follows:

3.22(1) *Training format.* The employer may present the training program to the employee in any format; however, the employer shall preserve a written summary and synopsis of the training, a ~~cassette tape~~ recording of an oral presentation, or a ~~videotape~~ video recording of an audio-video presentation of the training relied upon by the employer for compliance with 29 CFR 1910.1200(h), and shall allow employees and their designated representatives access to the written synopsis, ~~tape~~ recording, or ~~videotape~~ video recording.

3.22(2) *Review by the division.* The training program shall be available for review and approval upon inspection by the division. Upon request by the commissioner, the employer shall make available the written synopsis, ~~cassette-tape~~ recording, or ~~videotape~~ video recording used or prepared by the employer. The commissioner may conduct an inspection to review an actual training program or review the employer's records of a training program.

ITEM 5. Amend paragraph **4.3(2)“a”** as follows:

a. Completing the incident report form available at www.iowaosha.gov and faxing the completed form to ~~(515)242-5076~~ (515)281-7995 or sending the completed form to osha@iwd.iowa.gov;

ITEM 6. Amend rule 875—9.3(88) as follows:

875—9.3(88) General requirements of Iowa Code section 88.9(3). ~~Section~~ Iowa Code section 88.9(3) provides in general that no person shall discharge or in any manner discriminate against any employee because the employee has:

1. Filed any complaint under or related to the Act;
2. Instituted or caused to be instituted any proceeding under or related to the Act;
3. Testified or is about to testify in any proceeding under the Act or related to the Act; or
4. Exercised on the employee's own behalf or on behalf of others any right afforded by the Act.

Any employee who believes that the employee has been discriminated against in violation of Iowa Code section 88.9(3) may, within 30 days after such violation occurs, lodge a complaint with the commissioner of labor alleging the violation. The commissioner shall then cause an appropriate investigation to be

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made. If, as a result of the investigation, the commissioner determines that the provisions of Iowa Code section 88.9(3) have been violated, civil action may be instituted in any appropriate district court, to restrain violations of Iowa Code section 88.9(3) and to obtain other appropriate relief, including rehiring or reinstatement of the employee to the former position with backpay. ~~Section~~ Iowa Code section 88.9(3) further provides for notification of complainants by the commissioner of determinations made pursuant to their complaints.

ITEM 7. Amend rule 875—9.4(88) as follows:

875—9.4(88) Persons prohibited from discriminating. Iowa Code section 88.9(3) provides that a person shall not discharge or in any manner discriminate against an employee because the employee has exercised rights under the Act. ~~Section~~ Iowa Code section 88.3(9) defines “person” as “one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.” Consequently, the prohibitions of Iowa Code section 88.9(3) are not limited to actions taken by employers against their own employees. A person may be chargeable with discriminatory action against an employee of another person. ~~Section~~ Iowa Code section 88.9(3) would extend to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any other person in a position to discriminate against an employee.

ITEM 8. Amend subrule 9.5(1) as follows:

9.5(1) All employees are afforded the full protection of Iowa Code section 88.9(3). For purposes of the Act, an employee is defined as “an employee of an employer who is employed in a business of his employer.”

ITEM 9. Amend subrule 9.6(2) as follows:

9.6(2) At the same time, to establish a violation of Iowa Code section 88.9(3), the employee’s engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place “but for” engagement in protected activity, Iowa Code section 88.9(3) has been violated. Ultimately, the issue as to whether a discharge was because of protected activity will have to be determined on the basis of the facts in the particular case.

ITEM 10. Amend subrule 9.10(1) as follows:

9.10(1) Discharge of, or discrimination against, any employee because the employee has “instituted or caused to be instituted any proceeding under or related to this Act” is also prohibited by Iowa Code section 88.9(3). Examples of proceedings which could arise specifically under the Act would be inspections of workplaces under Iowa Code section 88.6, an employee contest of an abatement date under Iowa Code section 88.8(3), an employee application for modification or revocation of a variance under Iowa Code section 88.5 and an employee appeal of an order of the employment appeal board under Iowa Code section 88.9(1). In determining whether a “proceeding” is “related to” the Act, the considerations discussed in rule ~~875—8.9(88)~~ 875—9.9(88) would also be applicable.

ITEM 11. Amend subrule 9.15(2) as follows:

9.15(2) Iowa Code section 88.9(3) provides that an employee who believes discriminatory actions have occurred in violation of Iowa Code section 88.9(3) “may, within [30] days after such violation occurs,” file a complaint with the commissioner. The major purpose of the 30-day period in this provision is to allow the commissioner to decline to entertain complaints which have become stale. Accordingly, complaints not filed within 30 days of an alleged violation will ordinarily be presumed to be untimely. However, there may be circumstances which would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances, e.g., where the employer has concealed, or misled the employee regarding the grounds for discharge or other adverse action or where the discrimination is in the nature of a continuing violation. The pendency of grievance-arbitration proceedings or filing with another agency, among others, are circumstances which do not justify tolling of the 30-day period. In the absence of circumstances justifying a tolling of the 30-day period, untimely complaints will not be processed.

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ITEM 12. Amend rule 875—9.16(88) as follows:

875—9.16(88) Notice of determination. Iowa Code ~~subsection~~ section 88.9(3) provides that within 90 days of the filing of a complaint, the commissioner is to notify a complainant whether prohibited discrimination occurred. This 90-day provision is considered to be directory in nature. While every effort will be made to notify complainants of the commissioner's determination within 90 days, there may be instances when it is not possible to meet the directory period set forth in Iowa Code ~~subsection~~ section 88.9(3).

ITEM 13. Amend rule 875—9.18(88) as follows:

875—9.18(88) Arbitration or other agency proceedings.

9.18(1) An employee who files a complaint under Iowa Code section 88.9(3) of the Act may also pursue remedies under grievance arbitration proceedings in collective bargaining agreements. In addition, the complainant may concurrently resort to other agencies for relief, such as the National Labor Relations Board or the ~~Iowa department of personnel~~ department of administrative services. The commissioner's jurisdiction to entertain Iowa Code section 88.9(3) complaints, to investigate, and to determine whether discrimination has occurred, is independent of the jurisdiction of the other agencies or bodies. The commissioner may file action in district court regardless of the pendency of other proceedings. However, the commissioner also recognizes the policy favoring voluntary resolution of disputes under proceedings in collective bargaining agreements. By the same token, due deference should be paid to the jurisdiction of other forums established to resolve disputes which may also be related to Iowa Code section 88.9(3) complaints. Where a complainant is in fact pursuing remedies other than those provided by Iowa Code section 88.9(3), postponement of the commissioner's determination and deferral to the results of such proceedings may be in order.

9.18(2) Postponement of determination would be justified where the rights asserted in other proceedings are substantially the same as rights under Iowa Code section 88.9(3) and those proceedings are not likely to violate the rights guaranteed by Iowa Code section 88.9(3). The factual issues in such proceedings must be substantially the same as those raised by ~~a~~ an Iowa Code section 88.9(3) complaint, and the forum hearing the matter must have the power to determine the ultimate issue of discrimination.

9.18(3) A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-to-case basis, after careful scrutiny of all available information. Before deferring to the results of other proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular, and free of procedural infirmities, and that the outcome of the proceedings was not repugnant to the purpose and policy of the Act. In this regard, if such other actions initiated by a complainant are dismissed without adjudicatory hearing thereof, the dismissal will not ordinarily be regarded as determinative of the Iowa Code section 88.9(3) complaint.

ITEM 14. Amend rule 875—9.21(88) as follows:

875—9.21(88) Walkaround pay disputes. An employer's failure to pay employees for time during which they are engaged in walkaround inspections, or in other inspection-related activities, such as responding to questions of compliance officers, or participating in the opening and closing conferences, is discriminatory under ~~section~~ Iowa Code section 88.9(3) so long as neither the number of employees participating nor the time required to express employee concerns is excessive. An authorized employee representative shall be given the opportunity to accompany on the physical inspection pursuant to Iowa Code section 88.6(4) and rule 875—3.6(88).

This rule is intended to implement Iowa Code section 88.9(3).

ITEM 15. Amend rule 875—9.22(88) as follows:

875—9.22(88) Employee refusal to comply with safety rules. Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the Act are not exercising any rights afforded by the Act. Disciplinary measures taken by employers

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solely in response to employee refusal to comply with appropriate safety rules and regulations will not ordinarily be regarded as discriminatory action prohibited by Iowa Code section 88.9(3). This situation should be distinguished from refusals to work, as discussed in rule 875—8.12(88) 875—9.12(88).

ITEM 16. Amend subrule 10.2(3) as follows:

10.2(3) However, any standard shall apply according to its terms to any employment and place of employment in any industry, even though particular standards are also prescribed for the industry, as in 1910.12, 1910.261, 1910.262, 1910.263, 1910.264, 1910.265, 1910.266, ~~1910.267~~, and 1910.268 of 29 CFR 1910, to the extent that none of such particular standards applies.

ITEM 17. Amend **875—Chapter 29**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~88.5(12)~~ 88.5(11).

ITEM 18. Amend rule 875—160.1(91E) as follows:

875—160.1(91E) Purpose and scope. The rules in this chapter are intended to implement and clarify the division of ~~labor's~~ labor services' responsibilities under Iowa Code chapter 91E. These rules apply to employees employed on an hourly basis. These rules apply to employers whose total employment of employees paid on an hourly basis in this state exceeds 100.

ITEM 19. Amend **875—Chapter 169**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 90A ~~as amended by 2013 Iowa Acts, Senate File 430.~~

ITEM 20. Rescind rule 875—176.2(90A) and adopt the following **new** rule in lieu thereof:

875—176.2(90A) GLORY rules adopted by reference. The labor commissioner adopts by reference the kickboxing rules and regulations of GLORY Kickboxing as of January 1, 2023. The GLORY Kickboxing rules shall be used for all GLORY Kickboxing matches and events. These rules and regulations are posted on the division of labor services website at iowadivisionoflabor.gov.

ITEM 21. Amend rule 875—176.3(90A) as follows:

875—176.3(90A) Professional boxing rules adopted by reference. The following rules from 875—Chapter 173, Professional Boxing, are adopted by reference as kickboxing rules:

1. ~~875—173.3(90A) (Age restrictions);~~
2. 1. 875—173.6(90A) (~~Number~~ Limitations on number of bouts);
3. 2. 875—173.7(90A) (~~Contestant's~~ Contestants' arrival); and
4. 3. 875—173.18(90A) (Attendance of commissioner);
5. ~~875—173.22(90A) (Public safety);~~
6. ~~875—173.25(90A) (Locker rooms); and~~
7. ~~875—173.26(90A) (Contracts).~~

ITEM 22. Amend rule 875—215.1(91D) as follows:

875—215.1(91D) Requirement to pay.

~~215.1(1)~~ Every employer shall pay to each of the employer's employees performing work in this state wages of not less than the applicable minimum hourly wage set forth in Iowa Code section 91D.1 as ~~amended by 2007 Iowa Acts, House File 1,~~ unless otherwise noted in 875—Chapters 215 through 220.

~~215.1(2)~~ Rescinded IAB 12/12/01, effective 1/16/02.

~~215.1(3)~~ Rescinded IAB 11/23/94, effective 1/1/95.

ITEM 23. Amend subrule 215.2(1) as follows:

215.2(1) The 90-calendar-day period set forth in Iowa Code section 91D.1(1) "*d*" ~~as amended by 2007 Iowa Acts, House File 1,~~ is counted from the employee's initial day of work.

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ITEM 24. Amend paragraph **215.3(11)“a”** as follows:

a. Is an enterprise, other than an enterprise which is comprised exclusively of retail or service establishments and which is described in 215.3(11)“*b*,” whose annual gross volume of sales made or business done (exclusive of excise taxes at the retail level which are separately stated) is not less than ~~\$250,000~~ \$300,000;

ITEM 25. Amend subrule 216.1(4) as follows:

216.1(4) Initial employment wage rate—employer’s record. If the employer pays an initial employment wage rate as specified in Iowa Code section ~~91D.1(1)“*d*” as amended by 2007 Iowa Acts, House File 1,~~ 91D.1(1)“*d*,” the employer’s records shall include an indication as to the starting and ending date the employee is paid the initial employment wage rate.

SOURCE: 29 CFR 516.1.

ITEM 26. Amend rule 875—216.4(91D) as follows:

875—216.4(91D) Posting of notices. Every employer employing any employees subject to the minimum wage provisions of the Iowa minimum wage Act shall post and keep posted a notice explaining the Act, as prescribed by the division of labor services, in conspicuous places in every establishment where such employees are employed so as to permit them to readily observe a copy.

SOURCE: 29 CFR 516.4.

ITEM 27. Amend rule 875—216.8(91D) as follows:

875—216.8(91D) Computations and reports. Each employer required to maintain records under this chapter shall make extension, recomputation, or transcription of the records and shall submit to the division of labor services the reports concerning persons employed and the wages, hours, and other conditions and practices of employment set forth in the records as the commissioner may request in writing.

SOURCE: 29 CFR 516.8.

ITEM 28. Amend subrule 216.30(3) as follows:

216.30(3) The initial employment wage rate established in Iowa Code section 91D.1(1)“*d*” as ~~amended by 2007 Iowa Acts, House File 1,~~ shall be the basis for initial employment under this rule. The amount approved by a special order by the Secretary of Labor shall be effective if more than the amount specified in Iowa Code section ~~91D.1(1)“*d*” as amended by 2007 Iowa Acts, House File 1,~~ 91D.1(1)“*d*.” If the Secretary of Labor’s approved rate is lower than the initial employment wage rate, the initial employment wage rate shall be applicable for the period covered by the Secretary of Labor’s order.

ITEM 29. Amend subrule 217.39(2) as follows:

217.39(2) The amount of any individual’s earnings withheld by means of any legal or equitable procedure for the payment of any debt may not exceed the restriction imposed by state or federal garnishment laws; Iowa Code section ~~642.21(1989)~~ 642.21 or the federal Consumer Protection Act, Title III, 15 U.S.C. Sections ~~1671-1677(1982)~~ 1671-1677.

SOURCE: 29 CFR 531.39.

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ITEM 30. Amend paragraph **220.226(2)“c”** as follows:

c. Time spent in the training described in ~~220.226(1)“a”~~ paragraph 220.226(2)“a” or “b” is not compensable, even if all or part of the cost of the training is borne by the employer.

[Filed 3/28/23, effective 5/24/23]

[Published 4/19/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6991C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to occupational health and safety penalties for citations

The Labor Commissioner hereby amends Chapter 3, “Posting, Inspections, Citations and Proposed Penalties,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 91.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, 29 U.S.C. 667(c)(2) (OSH Act of 1970).

Purpose and Summary

Iowa’s Occupational Safety and Health Administration (Iowa OSHA) is required to be at least as effective as federal OSHA. The amendment to Chapter 3 aligns Iowa’s penalties for occupational safety and health citations with the corresponding federal OSHA penalties by making mandatory annual cost-of-living adjustments.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 8, 2023, as **ARC 6881C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commissioner on March 28, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making action is adopted:

Amend subrule 3.11(1) as follows:

3.11(1) The civil penalties proposed by the labor commissioner on or after June 1, ~~2022~~ 2023, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than ~~\$10,360~~ \$11,162 and shall not exceed ~~\$145,027~~ \$156,259.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed ~~\$145,027~~ \$156,259.

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed ~~\$14,502~~ \$15,625.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed ~~\$14,502~~ \$15,625.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed ~~\$14,502~~ \$15,625 per day.

f. Posting, reporting, or record-keeping violation. The penalty for each posting, reporting, or record-keeping violation under Iowa Code section 88.14(9) shall not exceed ~~\$14,502~~ \$15,625.

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6983C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to theory and practical examination process

The Board of Barbering hereby amends Chapter 5, "Fees," and Chapter 21, "Licensure," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 158 and 272C and section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 158 and 272C.

Purpose and Summary

This rule making updates the examination registration process and removes the requirement for the practical examination fee to be paid to the Board office.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 11, 2023, as **ARC 6814C**. A public hearing was held on January 31, 2023, at 9:30 a.m. in

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the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on February 27, 2023.

Fiscal Impact

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

Jobs Impact

This rule making expedites initial licensure, which supports the Governor's priorities.

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Rescind subrule **5.2(4)**.

ITEM 2. Renumber subrules **5.2(5)** to **5.2(17)** as **5.2(4)** to **5.2(16)**.

ITEM 3. Amend paragraph **21.2(1)“e”** as follows:

e. Applicants shall pass both the NIC theory examination and the NIC practical examination with a score of 70 percent or better on each examination.

(1) The applicant shall submit the test registration fee for the written theory and the practical examination directly to the test service.

(2) NIC examinations are administered according to guidelines set forth by the National Interstate Council of State Boards of Cosmetology.

ITEM 4. Rescind and reserve rule **645—21.3(158)**.

ITEM 5. Amend subrule 21.9(3) as follows:

21.9(3) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in ~~645—subrule 5.2(10)~~ 645—subrule 5.2(9). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 6. Amend paragraphs **21.11(1)“c”** and **“d”** as follows:

c. A barbershop license may be for a stationary barbershop or a mobile barbershop.

(1) Stationary barbershop. A stationary barbershop license shall be issued for a specific location. A change in location or site of a stationary barbershop shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by ~~645—subrule 5.2(8)~~

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645—subrule 5.2(7). A change of address without change of actual location shall not be construed as a new site.

(2) and (3) No change.

d. A barbershop license is not transferable. A change in ownership of a barbershop shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by ~~645—subrule 5.2(8)~~ 645—subrule 5.2(7).

ITEM 7. Amend subrule 21.16(2) as follows:

21.16(2) Pay the reactivation fee that is due as specified in ~~645—subrule 5.2(11)~~ 645—subrule 5.2(10).

ITEM 8. Amend subrule 21.17(2) as follows:

21.17(2) Pay the reactivation fee that is due as specified in ~~645—subrule 5.2(12)~~ 645—subrule 5.2(11).

[Filed 3/24/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6997C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to initial licensure and licensure reactivation

The Board of Behavioral Science hereby amends Chapter 31, “Licensure of Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 154D.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 154D.3.

Purpose and Summary

This rule making changes the process of applying for endorsement by requiring an applicant to provide verification of licensure only from the jurisdiction in which the applicant was most recently licensed, by requiring an applicant to disclose public or pending complaints in any other jurisdiction, and by removing notary requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6651C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on February 16, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Rescind paragraph **31.6(3)“b.”**

ITEM 2. Reletter paragraph **31.6(3)“c”** as **31.6(3)“b.”**

ITEM 3. Amend paragraph **31.8(1)“f,”** introductory paragraph, as follows:

f. Provides ~~verification(s)~~ verification of license(s) license from every the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction(s) jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

ITEM 4. Amend subrule 31.16(3) as follows:

31.16(3) Provide verification of current competence to practice mental health counseling or marital and family therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the ~~license(s) license~~ license from every the jurisdiction in which the applicant is or has been licensed and is or has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. to 4. No change.

(2) Verification of completion of 40 hours of continuing education obtained within the two years immediately preceding the application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the ~~license(s) license~~ license from every the jurisdiction in which the applicant is or has been licensed and is or has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) jurisdiction to the board office. The applicant must also

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disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. to 4. No change.

(2) Verification of completion of 80 hours of continuing education obtained within the two years immediately preceding the application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 7002C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to licensure and continuing education

The Board of Dietetics hereby amends Chapter 81, "Licensure of Dietitians," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 147 and 152A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147 and 152A.

Purpose and Summary

This rule making changes the process of applying for endorsement by requiring an applicant to provide verification of licensure only from the jurisdiction in which the applicant was most recently licensed and disclose public or pending complaints in any other jurisdiction. This rule making also allows for the verification of active practice in lieu of continuing education during reactivation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6655C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on March 17, 2023.

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 645—81.7(152A) as follows:

645—81.7(152A) Licensure by endorsement. An applicant who has been a licensed dietitian under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. to 4. No change.

5. Provides verification of license(s) license from every the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction(s) jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

ITEM 2. Amend subparagraph **81.15(3)“a”(1)**, introductory paragraph, as follows:

(1) Verification of the license(s) license from every the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

ITEM 3. Amend subparagraph **81.15(3)“a”(2)** as follows:

(2) Verification of completion of 30 hours of continuing education within two years of the application for reactivation or verification of active practice, consisting of at least 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

ITEM 4. Amend subparagraph **81.15(3)“b”(1)**, introductory paragraph, as follows:

(1) Verification of the license(s) license from every the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 5. Amend subparagraph **81.15(3)“b”(2)** as follows:

(2) Verification of completion of 60 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of at least 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6998C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to initial licensure and licensure reactivation

The Board of Hearing Aid Specialists hereby amends Chapter 121, “Licensure of Hearing Aid Specialists,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154A.

Purpose and Summary

This rule making changes the process of applying for endorsement by requiring an applicant to provide verification of licensure only from the jurisdiction in which the applicant was most recently licensed. The amendment also requires the applicant to disclose public or pending complaints in any other jurisdiction in which the applicant is licensed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6649C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on February 6, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

PROFESSIONAL LICENSURE DIVISION[645](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 May 24, 2023.

The following rule-making action is adopted:

Amend paragraph **121.6(1)“d”** as follows:

d. Provides verification of ~~license(s)~~ license from ~~every the~~ the jurisdiction in which the applicant has most recently been licensed, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

(1) to (4) No change.

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6992C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to licensure and continuing education hours

The Board of Massage Therapy hereby amends Chapter 131, “Licensure of Massage Therapists,” and Chapter 133, “Continuing Education for Massage Therapists,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 152C.3 as amended by 2022 Iowa Acts, House File 2168, and section 272C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 152C.3 as amended by 2022 Iowa Acts, House File 2168, and section 272C.2.

Purpose and Summary

This rule making relates to the Professional Licensure Division's rule making related to easing certain licensure requirements. This rule making amends the Board's continuing education rules to allow a minimum of eight hours earned by completing a program in which instruction is provided either in person or through live, real-time interactive media. Rather than require minimum in-person hours, the Board will instead strongly encourage all licensees to obtain in-person instruction whenever feasible, especially when learning new techniques. These amendments also include divisionwide changes to require submitting proof of licensure only for the state where the licensee was most recently licensed and to remove the diploma notarization requirement for foreign-educated massage therapists.

Public Comment and Changes to Rule Making

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6650C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing.

Three comments in support of the continuing education changes were received by email at the Board's office. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on March 7, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **131.2(1)“e,”** introductory paragraph, as follows:

e. If the applicant has been issued one or more licenses to practice massage therapy by other issuing jurisdictions, verification of ~~licenses~~ license from ~~every the~~ every the jurisdiction in which the applicant has most recently been licensed, sent directly from the issuing ~~jurisdictions~~ jurisdiction to the board. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from the jurisdiction's board office if the verification provides:

ITEM 2. Amend subrule 131.3(2) as follows:

131.3(2) Provide a ~~notarized~~ copy of the certificate or diploma awarded to the applicant from a massage therapy program in the country in which the applicant was educated.

ITEM 3. Amend paragraph **131.4(2)“f,”** introductory paragraph, as follows:

f. Verification of ~~license(s)~~ license from ~~every the~~ every the jurisdiction in which the applicant has most recently been licensed, sent directly from the issuing ~~jurisdiction(s)~~ jurisdiction to the board. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from the issuing jurisdiction's board office if the verification provides:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 4. Amend paragraph **131.6(1)“c,”** introductory paragraph, as follows:

c. Verification of ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant has most recently been licensed, sent directly from the issuing ~~jurisdiction(s)~~ jurisdiction to the board. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification provides:

ITEM 5. Amend subparagraph **131.9(2)“c”(2)**, introductory paragraph, as follows:

(2) Verification of the ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

ITEM 6. Amend subparagraph **131.9(2)“d”(3)**, introductory paragraph, as follows:

(3) Verification of the ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

ITEM 7. Amend subrule 133.3(2), introductory paragraph, as follows:

133.3(2) *Specific criteria.* A licensee shall obtain a minimum of 16 hours of continuing education credit every two years. A minimum of 8 hours of the 16 hours must be ~~hands-on training~~ earned by completing a program in which instruction is provided in person or through live, real-time interactive media. Although in-person continuing education instruction is not required, the board strongly encourages all licensees to obtain in-person instruction whenever feasible, especially when learning new techniques. ~~A maximum of 8 hours of the 16 hours may be independent study.~~ Licensees may obtain continuing education hours of credit by:

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6995C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to initial licensure and licensure reactivation

The Board of Nursing Home Administrators hereby amends Chapter 141, “Licensure of Nursing Home Administrators,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.76.

Purpose and Summary

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

These amendments change the process of applying for endorsement by requiring an applicant to provide verification of licensure only from the jurisdiction in which the applicant was most recently licensed, by requiring the applicant to disclose public or pending complaints in any other jurisdiction in which the applicant is licensed, and by removing notary requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6657C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 12, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **141.4(3)“b”** as follows:

b. Provide a ~~notarized~~ copy of the certificate or diploma awarded to the applicant from a nursing home administration program in the country in which the applicant was educated.

ITEM 2. Amend paragraph **141.7(1)“e,”** introductory paragraph, as follows:

e. Provides verification of ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant has most recently been licensed, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

ITEM 3. Amend subrule 141.15(3) as follows:

141.15(3) Provide verification of current competence to practice as a nursing home administrator by satisfying the following criteria:

a. Verification of the ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

(1) to (4) No change.

b. Verification of completion of 40 hours of continuing education within two years of the application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 7000C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to initial licensure and licensure reactivation

The Board of Optometry hereby amends Chapter 180, "Licensure of Optometrists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 154.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154.

Purpose and Summary

These amendments change the process of applying for endorsement by requiring an applicant to provide verification of licensure only from the jurisdiction in which the applicant was most recently licensed. These amendments also require the applicant to disclose public or pending complaints in any other jurisdiction in which the applicant is licensed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6656C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received.

Two changes from the Notice have been made for consistency with other licensure rules.

Adoption of Rule Making

This rule making was adopted by the Board on January 5, 2023.

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **180.3(1)“b”** as follows:

b. Verification of ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant has most recently been licensed showing the licensee's name, date of initial licensure, current licensure status, and any disciplinary action taken against the licensee. ~~practicing during the time period in which the Iowa license was inactive, sent directly from the jurisdiction to the board office.~~ The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

ITEM 2. Amend subrule 180.11(2) as follows:

180.11(2) Verification of ~~license(s)~~ license from ~~every~~ the jurisdiction in which the ~~licensee~~ applicant has most recently been licensed showing the licensee's name, date of initial licensure, current licensure status, and any disciplinary action taken against the licensee. ~~practicing during the time period in which the Iowa license was inactive, sent directly from the jurisdiction to the board office.~~ The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6985C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to initial licensure and licensure reactivation

The Board of Physical and Occupational Therapy hereby amends Chapter 200, “Licensure of Physical Therapists and Physical Therapist Assistants,” Chapter 203, “Continuing Education for Physical Therapists and Physical Therapist Assistants,” Chapter 206, “Licensure of Occupational Therapists and Occupational Therapy Assistants,” and Chapter 207, “Continuing Education for Occupational Therapists and Occupational Therapy Assistants,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 147, 148A and 148B and section 272C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 148A and 148B.

Purpose and Summary

This rule making amends the Board’s requirements for applying for endorsement and reactivation of licensure by requiring an applicant to only provide verification of licensure from the jurisdiction in which the applicant was most recently licensed and disclose public or pending complaints in any other jurisdiction. These amendments also update the definitions of “hour of continuing education” and “independent study” and remove the requirement for a posttest.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6661C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on March 10, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

PROFESSIONAL LICENSURE DIVISION[645](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 May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **200.7(1)“g,”** introductory paragraph, as follows:

g. Provide verification of ~~license(s)~~ license from ~~every the~~ jurisdiction in which the applicant has most recently been licensed, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

ITEM 2. Amend subrule 200.15(3) as follows:

200.15(3) Provide verification of current competence to practice physical therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the ~~license(s)~~ license from ~~every the~~ jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. to 4. No change.

(2) No change.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the ~~license(s)~~ license from ~~every the~~ jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. to 4. No change.

(2) No change.

ITEM 3. Amend rule ~~645—203.1(272C)~~, definitions of “Hour of continuing education” and “Independent study,” as follows:

“Hour of continuing education” means at least 50 minutes spent by a licensee ~~in actual attendance at and completion of~~ completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“Independent study” means a subject/program/activity that a person pursues autonomously ~~and that meets standards for approval criteria in the rules and includes a posttest.~~

ITEM 4. Amend rule 645—206.9(147) as follows:

645—206.9(147) Licensure by endorsement. An applicant who has been a licensed occupational therapist or occupational therapy assistant under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

1. to 5. No change.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

6. Provides verification of ~~license(s) license~~ from ~~every the~~ jurisdiction in which the applicant has most recently been licensed, sent directly from the ~~jurisdiction(s) jurisdiction~~ to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if it provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license; and

7. No change.

Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 5. Amend subrule 206.11(3) as follows:

206.11(3) Provide verification of current competence to practice occupational therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the ~~license(s) license~~ from ~~every the~~ jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s) jurisdiction~~ to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. to 4. No change.
- (2) No change.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the ~~license(s) license~~ from ~~every the~~ jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s) jurisdiction~~ to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. to 4. No change.
- (2) No change.

ITEM 6. Amend rule ~~645—207.1(148B)~~, definitions of "Hour of continuing education" and "Independent study," as follows:

"Hour of continuing education" means at least 50 minutes spent by a licensee ~~in actual attendance at and completion of~~ completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

"Independent study" means a subject/program/activity that a person pursues autonomously ~~and that meets standards for approval criteria in the rules and includes a posttest.~~

[Filed 3/27/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6994C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to initial licensure and licensure reactivation

The Board of Podiatry hereby amends Chapter 220, “Licensure of Podiatrists,” and Chapter 221, “Licensure of Orthotists, Prosthetists, and Pedorthists,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 148F and 149.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 148F and 149.

Purpose and Summary

This rule making changes the process of applying for endorsement by requiring an applicant to provide verification of licensure only from the jurisdiction in which the applicant was most recently licensed, by requiring an applicant to disclose public or pending complaints in any other jurisdiction, and by removing notary requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6653C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on January 13, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **220.4(2)“b”** as follows:

b. Provide a ~~notarized~~ copy of the certificate or diploma awarded to the applicant from a podiatry program in the country in which the applicant was educated.

ITEM 2. Amend paragraph **220.6(2)“f,”** introductory paragraph, as follows:

f. Request verification of ~~license(s)~~ license from ~~every the~~ the jurisdiction in which the applicant has most recently been licensed, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

ITEM 3. Amend paragraph **220.7(1)“e,”** introductory paragraph, as follows:

e. Provides verification of ~~license(s)~~ license from ~~every the~~ the jurisdiction in which the applicant has most recently been licensed, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

ITEM 4. Amend subparagraph **220.15(3)“a”(1)**, introductory paragraph, as follows:

(1) Verification of the ~~license(s)~~ license from ~~every the~~ the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

ITEM 5. Amend subparagraph **220.15(3)“a”(2)** as follows:

(2) Verification of completion of 40 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of at least 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

ITEM 6. Amend subparagraph **220.15(3)“b”(1)**, introductory paragraph, as follows:

(1) Verification of the ~~license(s)~~ license from ~~every the~~ the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

ITEM 7. Amend subparagraph **220.15(3)“b”(2)** as follows:

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of at least 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

ITEM 8. Amend paragraph **221.6(1)“f,”** introductory paragraph, as follows:

f. Provides verification of ~~license(s)~~ license from ~~every the~~ the jurisdiction in which the applicant has most recently been licensed, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

ITEM 9. Amend subparagraph **221.8(3)“a”(1)**, introductory paragraph, as follows:

(1) Verification of the ~~license(s)~~ license from ~~every the~~ the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

verification may be substituted for verification from a jurisdiction's board office if the verification includes:

ITEM 10. Amend subparagraph **221.8(3)“a”(2)** as follows:

(2) Verification of completion of:

1. For orthotists or prosthetists, 30 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of at least 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

2. For pedorthists, 20 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of at least 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

ITEM 11. Amend subparagraph **221.8(3)“b”(1)**, introductory paragraph, as follows:

(1) Verification of the ~~license(s)~~ license from every the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6993C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to licensure and continuing education

The Board of Respiratory Care and Polysomnography hereby amends Chapter 261, “Licensure of Respiratory Care Practitioners, Polysomnographic Technologists, and Respiratory Care and Polysomnography Practitioners,” and Chapter 262, “Continuing Education for Respiratory Care Practitioners and Polysomnographic Technologists,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 148G, 152B and 272C and section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 148G, 152B and 272C.

Purpose and Summary

This rule making changes the process of applying for endorsement by requiring an applicant to provide verification of licensure only from the jurisdiction in which the applicant was most recently licensed, by requiring the applicant to disclose public or pending complaints in any other jurisdiction, and by removing notary requirements. This rule making also allows for the verification of active practice in lieu of continuing education during reactivation. This rule making also updates the definitions of “hour of continuing education” and “independent study” and removes the requirement for a posttest.

Public Comment and Changes to Rule Making

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6654C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on February 21, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **261.2(1)“g,”** introductory paragraph, as follows:

g. An applicant who has been a licensed respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner under the laws of another jurisdiction shall provide verification of ~~license(s)~~ license from ~~every the~~ the jurisdiction in which the applicant has most recently been licensed. Verification shall be sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

ITEM 2. Amend paragraph **261.3(2)“b”** as follows:

b. Provide a ~~notarized~~ copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.

ITEM 3. Amend paragraph **261.3(5)“b”** as follows:

b. A ~~notarized~~ copy of a certificate showing proof of the successful achievement of the certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential awarded by the NBRC is submitted to the board; or

ITEM 4. Amend paragraph **261.3(5)“c”** as follows:

c. A ~~notarized~~ copy of the score report or an electronic web-based confirmation by the NBRC showing proof of successful completion is submitted to the board.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 5. Amend paragraph **261.4(6)“b”** as follows:

b. Provide a ~~notarized~~ copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.

ITEM 6. Amend subparagraph **261.5(1)“a”(2)** as follows:

(2) Provide a ~~notarized~~ copy of the certificate or diploma awarded to the applicant from the program in the country in which the applicant was educated.

ITEM 7. Amend subparagraph **261.5(1)“b”(2)** as follows:

(2) Results of the examinations must be received by the board of respiratory care and polysomnography by one of the following methods:

1. No change.

2. A ~~notarized~~ copy of a certificate showing proof of the successful achievement of the certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential awarded by the NBRC is submitted to the board; or

3. A ~~notarized~~ copy of the score report or an electronic web-based confirmation by the NBRC showing proof of successful completion of the Therapist Multiple-Choice Examination, State Clinical Examination, or Certified Respiratory Therapist Examination administered by the NBRC is submitted to the board.

ITEM 8. Amend subparagraph **261.14(4)“a”(1)**, introductory paragraph, as follows:

(1) Verification of the ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

ITEM 9. Amend subparagraph **261.14(4)“a”(2)**, introductory paragraph, as follows:

(2) Verification of completion of continuing education that conforms to standards defined in 645—262.3(148G,152B,272C) within 24 months immediately preceding submission of the application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction within 24 months immediately preceding an application for reactivation.

ITEM 10. Amend subparagraph **261.14(4)“b”(1)**, introductory paragraph, as follows:

(1) Verification of the ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

ITEM 11. Amend subparagraph **261.14(4)“b”(2)**, introductory paragraph, as follows:

(2) Verification of completion of continuing education that conforms to standards defined in 645—262.3(148G,152B,272C) within 24 months immediately preceding submission of the application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction within 24 months immediately preceding an application for reactivation.

ITEM 12. Adopt the following new subrule 261.14(5):

261.14(5) Submit a sworn statement of previous active practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant has practiced at least 2,080 hours or taught as the equivalent of a full-time faculty member for at least one of the immediately preceding years during the last two-year time period. Sole proprietors may submit the sworn statement on their own behalf.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 13. Amend rule ~~645—262.1(148G,152B,272C)~~, definitions of “Hour of continuing education” and “Independent study,” as follows:

“Hour of continuing education” means at least 50 minutes spent by a licensee ~~in actual attendance at and completion of approved continuing education activity~~ completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“Independent study” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules ~~and includes a posttest.~~

ITEM 14. Amend subrule 262.2(1) as follows:

262.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on April 1 of each even-numbered year and ending on March 31 of the next even-numbered year. Each biennium, the licensee shall be required to complete continuing education that meets the requirements specified in rule ~~645—262.3(148G,152B,272C)~~.

a. For respiratory care practitioner licensees: complete a minimum of 24 hours of continuing education. ~~Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.~~

b. For respiratory care and polysomnography practitioner licensees: complete a minimum of 24 hours of continuing education. ~~Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee. At least 8 hours but not more than 12 hours shall be on sleep-related topics.~~

c. For polysomnographic technologist licensees: complete a minimum of 24 hours of continuing education. ~~Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.~~

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6996C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to initial licensure and licensure reactivation

The Board of Social Work hereby amends Chapter 280, “Licensure of Social Workers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 154C.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 154C.4.

Purpose and Summary

This rule making changes the process of applying for endorsement by requiring an applicant to provide verification of licensure only from the jurisdiction in which the applicant was most recently licensed, by requiring an applicant to disclose public or pending complaints in any other jurisdiction, and by removing notary requirements.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6652C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on February 13, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Rescind paragraph **280.5(4)“b.”**

ITEM 2. Reletter paragraph **280.5(4)“c”** as **280.5(4)“b.”**

ITEM 3. Amend paragraph **280.7(1)“f,”** introductory paragraph, as follows:

f. Provides verification of license(s) license from every the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction(s) jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

ITEM 4. Amend subrule 280.14(3) as follows:

280.14(3) Provide verification of current competence to practice social work by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) license from every the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. to 4. No change.

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the verifications in both subparagraphs (1) and (2) below plus the verification in either subparagraphs (3) or (4) below.

(1) Verification of the license(s) license from every the jurisdiction in which the applicant is or has been licensed and is or has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. to 4. No change.

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; and

(3) and (4) No change.

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6999C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to initial licensure and licensure reactivation

The Board of Speech Pathology and Audiology hereby amends Chapter 300, "Licensure of Speech Pathologists and Audiologists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154F.

Purpose and Summary

This amendment changes the process of applying for endorsement by requiring an applicant to provide verification of licensure only from the jurisdiction in which the applicant was most recently licensed. This amendment also requires the applicant to disclose public or pending complaints in any other jurisdiction in which the applicant is licensed.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6658C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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 January 27, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making action is adopted:

Amend paragraph **300.9(2)“b,”** introductory paragraph, as follows:

b. Verification of ~~license(s)~~ license from ~~every the~~ jurisdiction in which the applicant has most recently been licensed, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification sent directly from the jurisdiction's board office if the verification provides:

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6984C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to licensure and continuing education

The Board of Athletic Training hereby amends Chapter 351, “Licensure of Athletic Trainers,” and Chapter 352, “Continuing Education for Athletic Trainers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76, 152D.5, and 272C.2.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 152D and 272C.

Purpose and Summary

This rule making amends the Board's requirements for applying for endorsement and reactivation of licensure by requiring an applicant to provide verification of licensure only from the jurisdiction in which the applicant was most recently licensed, by requiring an applicant to disclose public or pending complaints in any other jurisdiction, and by removing notary requirements. These amendments also update the definition of "hour of continuing education."

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6660C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on March 14, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **351.3(2)“b”** as follows:

b. Provide a ~~notarized~~ copy of the certificate or diploma awarded to the applicant from an athletic training program in the country in which the applicant was educated. An applicant who has passed the BOC examination is exempt from this requirement.

ITEM 2. Amend paragraph **351.7(1)“e,”** introductory paragraph, as follows:

e. Provides verification of ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant has most recently been licensed, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

ITEM 3. Amend subrule 351.15(3) as follows:

351.15(3) Provide verification of current competence to practice as an athletic trainer by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. to 4. No change.

(2) Verification of completion of 50 hours of continuing education within two years of the application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant ~~is or has been licensed and is or has~~ most recently been practicing during the time period the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. to 4. No change.

(2) Verification of completion of 50 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; and

(3) Verification of current BOC certification.

ITEM 4. Adopt the following **new** subrule 351.15(4):

351.15(4) Submit a sworn statement of previous practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant worked as an athletic trainer for at least 2,080 hours or taught as the equivalent of a full-time faculty member for at least one of the immediately preceding years during the last two-year time period.

ITEM 5. Amend rule ~~645—352.1(272C)~~, definition of "Hour of continuing education," as follows:

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

[Filed 3/27/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 7001C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to initial licensure and licensure reactivation

The Board of Sign Language Interpreters and Translitterators hereby amends Chapter 361, “Licensure of Sign Language Interpreters and Translitterators,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 154E.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154E.

Purpose and Summary

These amendments change the process of applying for endorsement by requiring an applicant to provide verification of licensure only from the jurisdiction in which the applicant was most recently licensed, by requiring the applicant to disclose public or pending complaints in any other jurisdiction in which the applicant is licensed, and by removing notary requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC 6659C**. A public hearing was held on December 7, 2022, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received.

Four changes from the Notice have been made for consistency with other licensure rules.

Adoption of Rule Making

This rule making was adopted by the Board on January 23, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **361.4(1)“e”(2)** as follows:

(2) A ~~notarized~~ certificate which shall be submitted showing proof of the successful completion of the examination specified in rule 645—361.2(154E); and

ITEM 2. Amend paragraph **361.4(1)“f,”** introductory paragraph, as follows:

f. Provides verification of ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant has most recently been licensed, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification directly from the jurisdiction’s board office if the verification provides:

ITEM 3. Amend subparagraph **361.9(3)“a”(1)**, introductory paragraph, as follows:

(1) Verification of the ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant ~~is or has been licensed and is or~~ has most recently been practicing during the time period in which the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

ITEM 4. Amend subparagraph **361.9(3)“a”(2)** as follows:

(2) Verification of completing 40 hours of continuing education within two years of the application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; and

ITEM 5. Amend subparagraph **361.9(3)“b”(1)**, introductory paragraph, as follows:

(1) Verification of the ~~license(s)~~ license from ~~every~~ the jurisdiction in which the applicant ~~is or has been licensed and is or~~ has most recently been practicing during the time period in which the Iowa license was inactive, sent directly from the ~~jurisdiction(s)~~ jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

ITEM 6. Amend subparagraph **361.9(3)“b”(2)** as follows:

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; and

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6988C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to appeals, taxpayer representation, and administrative procedures

The Revenue Department hereby amends Chapter 7, “Appeals, Taxpayer Representation, and Other Administrative Procedures,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 421.14, 421.59, 422.20 and 422.72.

REVENUE DEPARTMENT[701](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 17A and sections 421.10, 421.14, 421.17, 421.60 and 422.28.

Purpose and Summary

These amendments accomplish a variety of objectives. The rule regarding applicability and scope is amended in Item 1. Definitions are amended in Item 2 to eliminate unnecessary duplication of statute. The list of tax types now available on GovConnectIowa is updated in Item 3. Other amendments add clarity. Changes to the Department's rules on taxpayer representation more clearly describe the Department's signature requirements, modify the Department's procedures related to tax returns of minors, and add clarity to the rules. Amendments to the Department's rules on motions to redact identifying details correct an error and clarify hearing procedures related to such motions. Rules 701—7.9(17A) and 701—7.12(17A,421) are amended to simplify the procedures related to untimely appeals, appeals filed in the improper format, and appeals with no statutory basis to eliminate the need for taxpayers to file a separate application for reinstatement for untimely appeals and to more closely resemble the processes utilized for late-filed cases in other administrative or judicial settings. Other amendments to multiple rules reflect the use of electronic service by the Administrative Hearings Division of the Department of Inspections and Appeals. Finally, amendments to rule 701—7.19(17A) ensure matters that a taxpayer seeks to appeal to the district court are first appealed to the Director to exhaust administrative procedures and ensure the Department's final order reflects the position of the Director rather than that of an administrative law judge.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6923C**. No public comments were received. Since publication of the Notice, a citation was corrected in paragraph 7.19(7)"f."

Adoption of Rule Making

This rule making was adopted by the Department on March 29, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

REVENUE DEPARTMENT[701](cont'd)

The following rule-making actions are adopted:

ITEM 1. Amend rule 701—7.1(421,17A) as follows:

701—7.1(421,17A) Applicability and scope of rules. These rules are designed to implement the requirements of the Iowa administrative procedure Act and aid in the effective and efficient administration and enforcement of the tax laws of this state and other activities of the department. These rules shall govern the practice, procedure, and conduct of the informal proceedings, contested case proceedings, licensing, rule making, requests for waiver of rules, and declaratory orders involving taxation and other areas within the department's jurisdiction. The rules in this chapter apply to all informal proceedings, contested case proceedings, licensing, rule making, requests for waiver of rules, and declaratory orders pending or commenced on or after their effective date.

This rule is intended to implement Iowa Code chapter 17A.

ITEM 2. Amend rule **701—7.2(421,17A)**, definitions of “Contested case,” “Department,” “Motion,” “Provision of law” and “Rule,” as follows:

~~“Contested case” means a proceeding, including licensing, in which the legal rights, duties or privileges of a party are required by constitution or statute to be determined by an agency after an opportunity for an evidentiary hearing~~ the same as defined in Iowa Code section 17A.2(5). This term also includes any matter defined as a no factual dispute contested case as provided in Iowa Code section 17A.10A.

~~“Department” or “IDR” means the Iowa department of revenue.~~

~~“Motion” has the same meaning as the term is~~ means the same as defined in Iowa R. Civ. P. Rule of Civil Procedure 1.431.

~~“Provision of law” means the whole or part of the Constitution of the United States of America or the Constitution of the State of Iowa, or of any federal or state statute, court rule, executive order of the governor, or rule of the department same as defined in Iowa Code section 17A.2(10).~~

~~“Rule” means a department statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of the department. Notwithstanding any other statute, the term includes an executive order or directive of the governor which creates an agency or establishes a program or which transfers a program between agencies established by statute or rule. The term includes the amendment or repeal of an existing rule, but does not include the excluded items set forth in~~ the same as defined in Iowa Code section 17A.2(11).

ITEM 3. Amend paragraph **7.3(1)“a”** as follows:

a. By submitting through GovConnectIowa. As of November 15, 2021 14, 2022, GovConnectIowa is available for filing petitions for declaratory order, petitions for rule making, and petitions for rule waiver for all tax types, but is only available for filing appeals for the following tax types: sales, consumers/retailers use, E911, withholding, motor fuel, hotel/motel, local option sales, automobile rental, ~~and~~ water service excise, corporation income, S corporation income, partnership income, franchise, and tax credits and distributions associated with these tax types.

ITEM 4. Amend subrule 7.3(3) as follows:

7.3(3) Service by the department. All notices or documents required or permitted by this chapter to be served on parties or persons by the department or presiding officer that are not currently pending before an administrative law judge shall be served by ordinary mail unless the taxpayer has elected to receive communications exclusively through GovConnectIowa, pursuant to rule 701—8.6(421). For taxpayers registered in GovConnectIowa, posting the document in the taxpayer's GovConnectIowa account constitutes service or notice of the document. For taxpayer representatives registered in GovConnectIowa, posting the document in the taxpayer representative's GovConnectIowa account constitutes service or notice of the document. For nonregistered taxpayers or nonregistered taxpayer representatives, documents will be served by ordinary mail. When this nonregistered mailing is required, however, the department may note on the docket the parties served and the method of service instead of filing a certificate of service. With respect to any notice, correspondence, or communication

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served electronically, response deadlines shall be calculated from the date the taxpayer is notified electronically of the correspondence or the item is mailed, whichever is earlier.

ITEM 5. Amend paragraph 7.6(1)“a” as follows:

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.

ITEM 6. Amend subrule 7.6(3) as follows:

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 form 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 an original form, an electronically scanned and transmitted form, or a copy of a form. 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.~~

c. *Timely submission.* The form must be submitted within six months of the date of signature, or it will be considered invalid.

d. *Appointment of a representative via another form.* The department designates certain returns or other departmental forms on which a taxpayer may appoint a representative.

e. *Signature.* The signature on the form must be a handwritten signature, a digital signature with a digital certificate, or a signature otherwise accepted by the IRS for purposes of third-party authorization.

ITEM 7. Amend subrule 7.6(4) as follows:

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 as well.

ITEM 8. Amend subrule 7.6(5) as follows:

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~~ Individuals who ~~must be permitted to~~ execute an IDR power of attorney form ~~is~~ are as follows:

(1) Individual. In matters involving an individual taxpayer, an IDR power of attorney form must be signed by the individual or an authorized representative.

(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 authorized representative of ~~such one~~ spouse cannot perform any act with respect to a tax matter that the spouse represented cannot perform alone.

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);

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(3) Name, mailing address, and identification number of the representative (i.e., preparer's tax identification number (PTIN), ~~FEIN~~, SSN, centralized authorization file (CAF) number, or any federal- or Iowa-issued tax identification number) or an indication that an issued account number (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. If the tax type field is left blank, all tax types will be included within the scope of the representative's 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;

3. Iowa tax permit number;

(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."~~ A signature on the form, which must be a handwritten signature, a digital signature with a digital certificate, or a signature otherwise accepted by the IRS for purposes of third-party authorization.

(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 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). If the writing indicates that authorization should be revoked from "all" authorized representatives, this will apply to all representatives appointed via an IDR power of attorney form or an entity representative form.

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 authorized representative to remain as the taxpayer's authorized 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). This subrule does not apply to entities appointed as authorized entity representatives under subrule 7.6(9).

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(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, identification number, and address of the taxpayer(s); the name, address and identification number of the representative withdrawing; 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.

ITEM 9. Amend paragraph 7.6(6)“b” as follows:

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 identification number (i.e., SSN, CAF number, or any federal- or Iowa-issued tax identification number) 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:
 - Officer/employee of corporation/association: affirmation of authority to act on behalf of the corporation or association on the form designated by the department;
 - 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;
 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 or proof of status as parent or guardian, such as birth certificate or equivalent document, stating parent and minor taxpayer’s names, as well as the minor taxpayer’s date of birth. By submitting a copy of a return signed by the parent or guardian, the parent or guardian will only have authority in relation to that return. Without other authorization, such as a court-ordered guardianship, a parent’s right to access a minor taxpayer’s account will cease when the minor taxpayer reaches majority;
 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;
 9. Trustee: a copy of the certificate of trust, trust document, or court order appointing the representative;
 10. Successor of a very small estate under Iowa Code section 633.356(2): affirmation of authority to act on behalf of the estate on the form designated by the department;
- (5) ~~A valid signature meeting the requirements of rule 701—8.2(17A,421) of the representative~~ A signature of the representative on the form, which must be a handwritten signature, a digital signature

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with a digital certificate, or a signature otherwise accepted by the IRS for purposes of third-party authorization;

(6) No change.

ITEM 10. Amend subrule 7.6(9) as follows:

7.6(9) Entities as authorized representatives.

a. Appointment.

(1) A taxpayer may authorize an entity to act on its behalf in tax-related matters by following the procedures described in this subrule in a manner approved by the department. By appointing an authorized entity representative, the taxpayer consents to the authorized entity representative, and any individuals submitted to the department by the authorized entity representative, as described in paragraph 7.6(9)“c,” sending and receiving the taxpayer’s information to and from the department and taking any other action described in these rules. By appointing an authorized entity representative, the taxpayer understands that the authorized entity representative is solely responsible for maintaining an accurate list of individuals allowed to act on the taxpayer’s behalf. The taxpayer agrees that any improper disclosure or use of the taxpayer’s information by the entity or entity’s current or former employees, agents, or contractors shall solely be the responsibility of the entity and the entity’s employees, agents, or contractors. The department shall not be liable for any acts or omissions of the entity or the entity’s employees, agents, or contractors.

(2) The taxpayer’s consent must be in writing, in a form specified by the department, including a signature and date. The signature must be a handwritten signature, a digital signature with a digital certificate, or a signature otherwise accepted by the IRS for purposes of third-party authorization.

b. and c. No change.

d. Powers authorized. An authorized entity representative may be granted any or all of the powers described in subrule 7.6(2). The taxpayer may restrict the authorized entity representative as described therein and by tax type. If the tax type field is left blank, all tax types are included within the scope of the authorized entity representative’s authority.

e. to g. No change.

ITEM 11. Amend paragraph **7.8(2)“b”** as follows:

b. Process for filing a motion for redaction of other details prior to the commencement of a contested case. Motions for redaction of other details from a pleading, exhibit, attachment, motion or written evidence filed prior to a contested case must be filed with the clerk of the hearings section of the department. The motion must be filed separately from the ~~protest~~ appeal described in subrule ~~7.8(6)~~ 7.9(6).

ITEM 12. Amend subrule 7.8(4) as follows:

7.8(4) Rulings. Motions filed with the clerk of the hearings section will be ruled on by the director or may be referred by the director to an administrative law judge. Motions filed with the administrative law judge will be ruled on by the administrative law judge. In the case of motions before the director prior to contested case proceedings, the department may respond in writing to a motion on the request of the director or upon the initiative by department staff. Oral argument, including a hearing, may be held at the discretion of the presiding officer. The presiding officer may choose to close a hearing or other proceeding that may otherwise be open to the public due to the confidential nature of information covered by the motion during the pending motion.

ITEM 13. Amend subrule 7.9(3) as follows:

7.9(3) Paying assessment in order to appeal refund claim denial. Notwithstanding the above, the taxpayer who fails to timely appeal an assessment may contest the assessment by paying the whole assessed tax, interest, and penalty, and filing a refund claim within the time period provided by law for filing such claim. However, in the event that such assessment involves divisible taxes which are not timely appealed, namely, an assessment which is divisible into a tax on each transaction or event, the taxpayer may contest the assessment by paying a portion of the assessment and filing a refund claim within the time period provided by law. In this latter instance, the portion paid must represent any

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undisputed portion of the assessment and must also represent the liability on a transaction or event for which, if the taxpayer is successful in contesting the portion paid, the unpaid portion of the assessment attributable to that specific type of transaction would be canceled. *Flora v. United States*, 362 U.S. 145, 4 L.Ed. 2d 623, 80 S.Ct.630 (1960); *Higginbotham v. United States*, 556 F.2d 1173 (4th Cir. 1977); *Steele v. United States*, 280 F.2d 89 (8th Cir. 1960); *Stern v. United States*, 563 F. Supp. 484 (D. Nev. 1983); *Drake v. United States*, 355 F. Supp. 710 (E.D. Mo. 1973). Any such appeal filed is limited to the issues covered by the amounts paid for which a refund was requested and denied by the department. Thereafter, if the department does not grant or deny the refund within six months of the filing of the refund claim or if the department denies the refund, the taxpayer may file an appeal as authorized by this rule.

ITEM 14. Amend subrule 7.9(5) as follows:

7.9(5) Who may be named in an appeal. The appeal shall be brought in the name of the aggrieved taxpayer. The appeal may be filed by and in the name of the aggrieved taxpayer or by ~~and in the name of~~ the authorized representative described in Iowa Code section 421.59(2), Iowa Code chapter 633B, or subrule 7.6(6) legally entitled to institute a proceeding on behalf of the person, or by an intervenor in contested case proceedings. In the event of a discrepancy between the name set forth in the appeal and the correct name, a statement of the reason for the discrepancy shall be set forth in the appeal.

ITEM 15. Amend subrule 7.9(7) as follows:

7.9(7) Amendments.

a. The taxpayer may amend the appeal at any time before a responsive pleading is filed. Amendments to the appeal after a responsive pleading has been filed may be allowed by the presiding officer with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

b. The department may request that the taxpayer amend the appeal for purposes of clarification or to comply with format requirements. If the taxpayer fails to amend the appeal within the time provided for in the department's request, the department may move to dismiss the appeal under paragraph 7.12(3) "a." Requests by the department to the taxpayer to amend the appeal after a responsive pleading has been filed may be allowed by the presiding officer with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

ITEM 16. Amend subrule 7.11(1) as follows:

7.11(1) Appeals section review. ~~When~~ After an appeal is filed, the review unit, subject to the control of the director or the division administrator of the legal services and appeals division, will:

a. to e. No change.

ITEM 17. Rescind rule 701—7.12(17A,421) and adopt the following **new** rule in lieu thereof:

701—7.12(17A,421) Dismissal of appeals.

7.12(1) Appeals filed after expiration of statutory deadline. Appeals that are not filed by the deadline described in statute shall be dismissed by the director or the director's designee in accordance with the procedure outlined in paragraph 7.12(1) "a."

a. Procedures for motions to dismiss. The department shall file a motion to dismiss with the clerk and serve a copy of the motion on the taxpayer. The taxpayer may file a resistance to the motion within 20 days of the date of service of the motion. If no resistance is so filed, the director or the director's designee shall immediately enter an order dismissing the appeal. If a resistance is filed, the department has ten days from the date of the filing of the resistance to decide whether to withdraw its motion and so notify the taxpayer and the clerk. If no such notice is received by the clerk within the ten-day period, the appeal file will be transferred to the division of administrative hearings, which shall issue a notice for a contested case proceeding on the motion as prescribed by rule 701—7.16(17A), except that the issue of the contested case proceeding shall be limited to the question of whether the appeal was filed within the statutory appeal period. Thereafter, rule 701—7.19(17A) pertaining to contested case proceedings shall apply in such dismissal proceedings.

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b. Grounds for denying the department's motion. The department's motion shall be granted unless the taxpayer can prove that it filed the appeal prior to the expiration of the statutory appeal deadline because the department failed to:

- (1) Mail or personally deliver the notice of assessment, refund denial, or other notice of department action to the taxpayer's last-known address; or
- (2) If applicable, also mail the notice of assessment, refund denial, or other notice of department action to the taxpayer's authorized representative; or
- (3) Comply with the requirements of Iowa Code section 421.60(2) "b."

For purposes of this rule, "last-known address" and "personal delivery" mean the same as described in rule 701—7.33(421).

7.12(2) Appeals not authorized by statute. Appeals that are not authorized by statute or otherwise are inconsistent with the statutory requirements for an appeal shall be dismissed by the director in accordance with the procedure outlined in paragraph 7.12(1) "a," except that the issue shall be limited to the question of whether the appeal is authorized by statute and consistent with statutory appeal requirements.

7.12(3) Failure to pursue the appeal at the informal stage. If the appeal was filed timely and informal procedures were initiated, the failure of the taxpayer to provide documents or information requested by the department, including the failure to respond to a position letter or an information request, shall constitute grounds for the department to dismiss the appeal in accordance with the procedure outlined in paragraph 7.12(3) "a." For purposes of this subrule, an evasive or incomplete response will be treated as a failure to provide documents or information.

a. Procedures for motions to dismiss. If the department seeks to dismiss the appeal, the department shall file a motion to dismiss with the clerk and serve a copy of the motion on the taxpayer. The taxpayer may file a resistance to the motion within 20 days of the date of service of the motion. If no resistance is so filed, the director or the director's designee shall immediately enter an order dismissing the appeal. If a resistance is filed, the department has ten days from the date of the filing of the resistance to decide whether to withdraw its motion and so notify the taxpayer and the clerk. If no such notice is received by the clerk within the ten-day period, the appeal file will be transferred to the division of administrative hearings, which shall issue a notice for a contested case proceeding on the motion as prescribed by rule 701—7.16(17A), except that the issue of the contested case proceeding shall be limited to the question of whether the taxpayer failed to pursue the appeal, as that term is defined in this subrule. Thereafter, rule 701—7.19(17A) pertaining to contested case proceedings shall apply in such dismissal proceedings.

b. Grounds for reinstatement of dismissed appeals. If a motion to dismiss is filed and is unresisted, the appeal that was dismissed may be reinstated by the director or the director's designee for good cause if an application for reinstatement is filed with the clerk within 30 days of the date the appeal was dismissed. For purposes of this rule, "good cause" shall mean the same as "good cause" in Iowa Rule of Civil Procedure 1.977.

c. Content and review of the application for reinstatement. The application shall set forth all reasons and facts upon which the taxpayer relies in seeking reinstatement of the appeal. Supporting documentation must be supplied. The department shall review and notify the taxpayer whether the application is granted or denied.

d. Denial of the application. If the department denies the application to reinstate the appeal, the taxpayer has 30 days from the date the application for reinstatement was denied in which to request, in writing, a formal hearing on the reinstatement. The taxpayer shall send the written request to the clerk. When a written request for formal hearing is received, the appeal file will be transferred to the division of administrative hearings, which shall issue a notice as prescribed in rule 701—7.16(17A), except that the issue of the contested case proceeding shall be limited to the question of whether the taxpayer has good cause to reinstate the dismissed appeal. Thereafter, rule 701—7.19(17A) pertaining to contested case proceedings shall apply in such reinstatement proceedings. If the taxpayer does not respond to a denial of the application for reinstatement within 30 days of the denial, the director or the director's designee will issue an order closing the appeal.

e. Failure to file timely application for reinstatement. If an application for reinstatement is filed after the 30-day deadline, the application shall not be accepted by the director or director's designee.

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7.12(4) *Dismissal of appeals during contested case proceedings.* Once contested case proceedings have been commenced, it shall be grounds for a motion to dismiss that a taxpayer has either failed to diligently pursue the appeal or has refused to comply with requests for discovery set forth in rule 701—7.17(17A). Such a motion must be filed with the presiding officer.

This rule is intended to implement Iowa Code sections 17A.12, 421.10, 421.60, and 422.28.

ITEM 18. Amend subrule 7.16(3) as follows:

7.16(3) Contested case proceedings will be commenced by the presiding officer by delivery of notice by ordinary mail or electronic mail directed to the parties after a demand or request is made (a) by the taxpayer and the filing of the answer, if one is required, which demand or request may include a date to be set for the hearing, or (b) upon filing of the answer, if a request or demand for contested case proceedings has not been made by the taxpayer. The notice will be given by the presiding officer.

ITEM 19. Amend subrule 7.17(1) as follows:

7.17(1) When the department relies on a witness in a contested case, whether or not the witness is a departmental employee, who has made prior statements or reports with respect to the subject matter of the witness' testimony, the department shall, on request, make such statements or reports available to a party for use on cross-examination unless those statements or reports are otherwise expressly exempt from disclosure by constitution or statute. Identifiable ~~departmental~~ department records that are relevant to disputed material facts involved in a contested case shall, upon request, promptly be made available to the party unless the requested records are expressly exempt from disclosure by constitution or statute.

ITEM 20. Amend subparagraph **7.19(4)“d”(2)** as follows:

(2) Evidence of a federal determination of the taxpayer's liability. Evidence of a federal determination ~~of the taxpayer's liability~~ such as a treasury department ruling, regulation or determination letter issued to the taxpayer; a taxpayer's federal court decision; or an Internal Revenue Service assessment issued to the taxpayer relating to issues raised in the proceeding shall be admissible, and the taxpayer shall be presumed to have conceded the accuracy of the federal determination unless the taxpayer specifically states wherein it is erroneous.

ITEM 21. Amend paragraph **7.19(7)“f”** as follows:

f. A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the ~~adverse~~ adversely affected party as provided in subrule ~~7.19(13)~~ 7.19(12).

ITEM 22. Amend paragraphs **7.19(8)“d”** and **“h”** as follows:

d. When the director initially presides at a hearing or considers decisions on appeal from or review of a proposed decision by the presiding officer other than the director, the order becomes the final order of the department for purposes of judicial review or rehearing unless there is an appeal to or review on motion of a second agency within the time provided by statute or rule. When a presiding officer other than the director presides at the hearing, the order becomes ~~the final order of the department for purposes of judicial review or rehearing~~ and not subject to judicial review unless there is an appeal to or review on motion of the director within 30 days of the date of the order, including Saturdays, Sundays, and holidays as defined in Iowa Code section 421.9A, or 10 days, excluding Saturdays, Sundays, and holidays as defined in Iowa Code section 421.9A, for a revocation order pursuant to rule 701—7.39(17A). However, if the contested case proceeding involves a question of an award of reasonable litigation costs, the proposed order on the substantive issues shall not be appealable to or reviewable by the director on the director's motion until the issuance of a proposed order on the reasonable litigation costs. If there is no such appeal to or review by the director within 30 days or 10 days, whichever is applicable, from the date of the proposed order on reasonable litigation costs, both the proposed order on the substantive issues and the proposed order on the reasonable litigation costs become ~~the final orders of the department for purposes of judicial review or rehearing~~ and not subject to judicial review. On an appeal from, review of, or application for rehearing concerning the presiding officer's order, the director has all the power which the director would initially have had in making the decision; however, the director will consider only

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those issues presented at the hearing before the presiding officer or raised independently by the presiding officer, including the propriety of and the authority for raising issues. The parties will be notified of those issues which will be considered by the director.

h. Orders will be issued within a reasonable time after termination of the hearing. Parties shall be promptly notified of each order by delivery to them of a copy of the order by personal service, regular mail, certified mail, return receipt requested, AEDMS as described in 481—Chapter 16, or any other method to which the parties may agree. For example, a copy of the order can be submitted by electronic mail if both parties agree.

ITEM 23. Adopt the following **new** paragraph **7.19(8)“k”**:

k. A party may not seek judicial review until the director has issued a final decision of the agency. If a party seeks judicial review of a proposed decision of an administrative law judge without appealing to the director or without review of the proposed decision by the director, the party shall be deemed to have failed to exhaust adequate administrative remedies.

ITEM 24. Amend subrule 7.29(7) as follows:

7.29(7) Action required. Within 60 days after the filing of the petition, or within an extended period as agreed to by the petitioner, the department must, in writing, either: (a) deny the petition and notify the petitioner of the department’s action and the specific grounds for the denial; or (b) grant the petition and notify the petitioner that the department has instituted rule-making proceedings on the subject of the petition. The petitioner shall be deemed notified of the denial of the petition or the granting of the petition on the date that the department mails or delivers the required notification to the petitioner. All orders granting or denying a petition shall be submitted ~~on the Internet site as prescribed in Iowa Code section 17A.9A~~ to the administrative rules review committee.

ITEM 25. Amend subrule 7.37(2) as follows:

7.37(2) Procedures. Appeals will be governed by the procedures set forth in this rule together with the procedures set forth in the following rules:

a. to d. No change.

e. Subrules 7.12(1), 7.12(2), and ~~7.12(6)~~ 7.12(4);

f. to p. No change.

[Filed 3/29/23, effective 5/24/23]

[Published 4/19/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6987C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to electronic signatures

The Revenue Department hereby amends Chapter 8, “Forms and Communications,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 421.14 and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.21.

Purpose and Summary

REVENUE DEPARTMENT[701](cont'd)

Paragraph 8.5(2)“b” currently lists a requirement for electronic return originators to use a process for electronic signatures that is much more stringent than the current practice of the Department. This amendment changes the language of the rule to align with current practice.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 8, 2023, as **ARC 6882C**. 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 29, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making action is adopted:

Amend paragraph **8.5(2)“b”** as follows:

b. Electronic signature via remote transaction. ~~Before a taxpayer electronically signs a Declaration for e-File Return form in which the ERO is not physically present with the taxpayer, the ERO must record the name, social security number, address and date of birth of the taxpayer. The ERO must verify that the name, social security number, address, date of birth and other personal information of the taxpayer on record are consistent with the information provided through record checks with the applicable agency or institution or through credit bureaus or similar databases. This process is not necessary for handwritten signatures on a Declaration for e-File Return form sent to the ERO by hand delivery, U.S. mail, private delivery service, fax, email or an Internet site. In lieu of in-person handwritten signatures, a paid preparer, at the discretion of the taxpayer, may collect taxpayers’ electronic signatures remotely by a process using identity verification and audit trail in the manner that the IRS allows for Form 8879.~~

[Filed 3/29/23, effective 5/24/23]

[Published 4/19/23]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6990C**REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to forms and communications**

The Revenue Department hereby amends Chapter 8, “Forms and Communications,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 422.14, 422.15, 422.16B, 422.36, 422.37 and 422.62.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 422.14, 422.15, 422.16B, 422.36, 422.37 and 422.62.

Purpose and Summary

This amendment adds a new method for the Department to provide relief from the requirement that certain taxpayers file Iowa income tax returns electronically. The existing subrule offers relief only when a taxpayer requests it for good cause, and the subrule specifies that inadequate return preparation software would never be considered good cause. The Department has since encountered a scenario in which a legal requirement changed and required an update to forms after the electronic tax forms had been developed for the year. As a result of this change to the forms, no software provider will be able to offer an electronic version of the affected form that reflects the change. This amendment allows the Department to provide blanket relief from the electronic filing requirement to taxpayers who are required to use the affected form, either by providing an exception in the instructions for obtaining relief on the affected form itself or by the issuance of an order by the Director granting such relief.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6922C**. 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 29, 2023.

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

REVENUE DEPARTMENT[701](cont'd)

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making action is adopted:

Amend subrule 8.7(5) as follows:

8.7(5) Exceptions. At the department's discretion, exceptions to the electronic filing requirement under this rule may be granted for good cause. The taxpayer bears the burden to prove that good cause exists for the failure to file electronically. Except as provided in paragraph 8.7(5) "b," a claim that the return preparation software purchased or licensed by a taxpayer or taxpayer's return preparer does not include all of the features necessary to comply with the taxpayer's Iowa filing obligations shall not be considered good cause for purposes of granting an exception to the electronic filing requirement.

a. No change.

b. Special relief provided by the department. The department may, at its discretion, offer a good-cause exception to the electronic filing requirement for filers of a specific return type or form for a specific filing period by providing such an exception in the instructions for that return type or form or by an order issued by the director. Taxpayers must comply with all instructions provided by the department in order to qualify for relief.

b- c. Temporary one-time relief. For tax years ending on or before December 31, 2023, if the department determines a taxpayer that filed a paper return was required to file in an electronic manner as provided in this rule, the department will notify the taxpayer in writing of the requirements of this rule. If the taxpayer properly files in an electronic manner within 30 days of the date of the notification under this paragraph, the department shall grant an exception to the requirements of this rule and deem the originally filed paper return a valid return. A taxpayer shall only be granted the benefit of this paragraph for one eligible return.

[Filed 3/30/23, effective 5/24/23]

[Published 4/19/23]

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ARC 7004C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to food or food ingredients

The Revenue Department hereby amends Chapter 215, "Exemptions Primarily Benefiting Manufacturers and Other Persons Engaged in Processing," 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 2022 Iowa Acts, Senate File 2367.

Purpose and Summary

REVENUE DEPARTMENT[701](cont'd)

The Department previously adopted rule 701—215.2(423) to implement an exemption found in Iowa Code section 423.3(49) for manufacturers of “marketable food products for human consumption.” Senate File 2367, division VIII, amended that exemption, such that it now applies to manufacturers of “food or food ingredients.” The Department has now amended the rule implementing that exemption so that it conforms to the statutory change. The Department has also added several examples to the rule to illustrate situations where manufacturers may or may not be eligible to claim the exemption for eligible purchases based on the product being manufactured.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6924C**. A public hearing was held on March 14, 2023, at 11 a.m. in Room 1 NW, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa.

The Iowa Taxpayers Association (ITA) provided the only written comment and was the only attendee of the Department’s public hearing on the published Notice. ITA suggested the Department add language in Example 3 to clarify that although a manufacturer may not qualify for an exemption under this rule and Iowa Code provision, other exemptions may be applicable to the manufacturer and its operation. The Department has added language to clarify this point.

Adoption of Rule Making

This rule making was adopted by the Department on March 31, 2023.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it seeks to implement. The Legislative Services Agency estimated division VIII of 2022 Iowa Acts, Senate File 2367, would result in a \$4.2 million reduction to the General Fund, \$0.8 million reduction to Securing an Advanced Vision for Education revenue, and \$0.8 million reduction to local option sales tax revenues in fiscal year 2023.

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 May 24, 2023.

The following rule-making action is adopted:

Amend rule 701—215.2(423) as follows:

701—215.2(423) Carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services used in processing. An expanded definition of “processing” is allowed to manufacturers of

REVENUE DEPARTMENT[701](cont'd)

~~food products for human consumption~~ or food ingredients using carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services. For the purposes of this rule, the rental or leasing of tangible personal property is treated as the furnishing of a taxable service and not as the sale of tangible personal property.

~~215.2(1) "Marketable food products for human consumption" means products intended to be sold ultimately at retail as items which furnish energy, sustain growth, support vital processes in the human body, and are final products ready for and capable of consumption without the need for further processing after being sold to the purchaser. "Marketable food products for human consumption" includes food products traditionally accepted and sold as food products and products that have been enhanced or compounded with nutritional elements. "Marketable food products for human consumption" does not include medicines or dietary or food supplements. A product that may be consumed by a human but is sold for other purposes is not a marketable food product for human consumption. "Food or food ingredients" means the same as defined in Iowa Code section 423.3(49) "b." This means that for purposes of this exemption, "food or food ingredients" means the same as defined in Iowa Code section 423.3(57) "d" and implemented by rule 701—220.3(423) but also includes tangible personal property that could be sold for ingestion or chewing by humans but is sold for another use.~~

EXAMPLE 1: Manufacturer A produces gelatin that qualifies as a food or food ingredient. Manufacturer A only sells the gelatin to a cosmetics manufacturer. The sales price of any carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services used by Manufacturer A to produce the gelatin is exempt from sales tax even though the gelatin was not sold for human consumption.

EXAMPLE 2: Manufacturer B produces two types of gelatin products. Product 1 is manufactured at a quality such that it may be used for technical purposes, such as an ingredient in wood glue, but humans could not consume Product 1 safely. Product 2 is manufactured at a quality such that humans could safely eat it, though it can also be sold for technical purposes like Product 1. Product 1 is not a food or food ingredient. Product 2 is a food or food ingredient.

EXAMPLE 3: Manufacturer C produces alcohol, all of which qualifies as a food or food ingredient. Manufacturer C sells one-third of its product to vodka Manufacturer V, one-third to fuel ethanol Manufacturer F, and one-third to perfume Manufacturer P. The sales price of any carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services used by Manufacturer C to produce the alcohol is exempt from sales tax regardless of whether Manufacturer C sells the alcohol to Manufacturer V, F, or P.

Manufacturer V's product is food-grade vodka sold at grocery and convenience stores. Manufacturer V may claim exemption for the same inputs used in producing its vodka as Manufacturer C.

Manufacturer F's product is only sold to be used in motor vehicles and is harmful to humans if consumed. Manufacturer F cannot claim exemption under Iowa Code section 423.3(49) for any carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services used to produce its ethanol fuel. Manufacturer F may qualify for exemptions provided under other Iowa Code sections.

Manufacturer P's product is only sold for cosmetic purposes and is harmful to humans if consumed. Manufacturer P cannot claim exemption under Iowa Code section 423.3(49) for any carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services used to produce its perfume. Manufacturer P may qualify for exemptions provided under other Iowa Code sections.

a. Certain entities eligible. An entity that processes a product owned by another entity is eligible for this exemption, subject to satisfying the other requirements to properly claim the exemption.

EXAMPLE: Company A owns and operates a processing facility. Company B owns corn and contracts with Company A to process the corn. Company B maintains ownership of the corn the entire time it is processed and in possession of Company A. Company B sells the processed corn to Company C, who will make retail sales of the processed corn. Company A is eligible to claim this exemption for any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or other taxable service used to process the corn.

b. Determination. The burden is on the taxpayer seeking to claim this exemption to establish a product is a ~~marketable food product for human consumption~~ food or food ingredient for purposes of this

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exemption. The department's determination shall be a fact-based determination based on the information provided by a manufacturer and the individual circumstances at issue.

EXAMPLE: A manufacturer produces products, such as glucosamine, that are used as ingredients in orange juice, which is produced by a different entity. The glucosamine is not a marketable food product for human consumption. ~~The and the orange juice is a marketable food product for human consumption~~ are both food or food ingredients for purposes of this exemption.

215.2(2) The following activities constitute processing when performed by a manufacturer to create food ~~products for human consumption~~ or food ingredients. Any carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, or other taxable services primarily used in the performance of these activities is exempt from tax.

a. Treatment of material that changes its form, context, or condition in order to produce a ~~marketable food product for human consumption~~ the food or food ingredient. "Special treatment" of the material to change its form, context, or condition is not necessary to lawfully claim the exemption. Examples of "treatment" which would not be "special" are the following: the washing, sorting and grading of fruits or vegetables; the washing, sorting, and grading of eggs; and the mixing or agitation of liquids. By way of contrast, sterilization would be "special treatment."

b. Maintenance of the quality or integrity of the food ~~product~~ or food ingredient and the maintenance or the changing of temperature levels necessary to avoid spoilage or to hold the food or food ingredient in marketable condition. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or other taxable service used in freezers, heaters, coolers, refrigerators, or evaporators used in cooling or heating which holds the food ~~product~~ or food ingredient at a temperature necessary to maintain quality or integrity or to avoid spoilage of the food or food ingredient or to hold the food ~~product~~ or food ingredient in marketable condition is exempt from tax. It is not necessary that the taxable service be used to raise or lower the temperature of the food or food ingredient. Also, processing of food ~~products for human consumption~~ or food ingredients does not cease when the food ~~product~~ or food ingredient is in marketable form. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or taxable service used to maintain or to change a temperature necessary to keep the ~~product~~ food or food ingredient marketable is exempt from tax.

c. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or other taxable service primarily used in the maintenance of environmental conditions necessary for the safe or efficient use of machinery or material used to produce the food ~~product~~ or food ingredient is exempt from tax. For example, electricity used to air-condition a room in which meat is stored is exempt from tax if the purpose of the air conditioning is to maintain the meat in a condition in which it is easy to slice rather than for the comfort of the employees who work in the room.

d. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or taxable service primarily used in sanitation and quality control activities is exempt from tax. Nonexclusive examples exempt from tax include taxable services used in pH meters, microbiology counters and incubators used to test the purity or sanitary nature of ~~a the food product~~ or food ingredient. For example, electricity used in egg-candling lights would be exempt from tax. Also, electricity, steam, or any taxable service used to power equipment which cleans and sterilizes food production equipment would be exempt from tax. Electricity used to power refrigerators used to store food or food ingredient samples for testing would be exempt from tax. Finally, electricity used to power "bug lights" or other insect-killing equipment used in areas where food ~~products~~ or food ingredients are manufactured or stored would be exempt from tax.

e. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or taxable service used in the formation of packaging for ~~marketable food products for human consumption~~ food or food ingredients is exempt from tax. For example, electricity used in plastic bottle-forming machines by a food manufacturer is exempt from tax if the plastic bottles will be used to hold ~~a marketable food product~~ the food or food ingredient, such as milk. Any electricity, steam, or other taxable service used in the heating, compounding, liquefying and forming of plastic pellets into these plastic bottles is exempt.

f. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or taxable service used in placement of the food ~~product~~ or food ingredient into shipping containers is exempt from tax. For

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example, electricity used by a food manufacturer to place food ~~products~~ or food ingredients into packing cases, pallets, crates, shipping cases, or other similar receptacles is exempt.

g. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or taxable service used to move material which will become a ~~marketable food product~~ food or food ingredient or used to move the ~~marketable food product~~ food or food ingredient itself until shipment from the building of manufacture is exempt from tax. This includes, but is not limited to, taxable services used in pumps, conveyors, forklifts, and freight elevators moving the material or the food product or food ingredient and taxable services used in door openers which open doors for forklifts or other devices moving the material or ~~product~~ the food or food ingredient. Any loading dock which is attached to a building of manufacture is a part of that building. Any electricity, steam, or taxable service used to move any food ~~products~~ or food ingredient to a loading dock is exempt from tax. If a the food product or food ingredient is carried outside its building of manufacture by any conveyor belt system, electricity used by any portion of the system located outside the building is taxable.

This rule is intended to implement Iowa Code section 423.3(49).

[Filed 3/31/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 6989C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to sales tax exemption for diapers

The Revenue Department hereby amends Chapter 220, "Exemptions Primarily of Benefit to Consumers," 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 2022 Iowa Acts, Senate File 2367.

Purpose and Summary

The Iowa Legislature enacted a sales tax exemption for diapers in 2022 Iowa Acts, Senate File 2367, division II, which took effect January 1, 2023. New Iowa Code section 423.3(109) specifically exempts from sales tax "[t]he sales price from the sale of a child or adult diaper, whether cloth or disposable." Since the statute does not define the word "diaper," to avoid any confusion about what is exempt as a diaper, the Department has adopted this new rule to define "diaper" in accordance with the definition adopted by the Streamlined Sales Tax Governing Board, of which Iowa is a member state.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6920C**. A public hearing was held on March 14, 2023, at 9 a.m. in Room 1 NW, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa. One individual attended the public hearing and expressed support for the proposed rule. The public hearing attendee also provided written comments. No changes from the Notice have been made.

Adoption of Rule Making

REVENUE DEPARTMENT[701](cont'd)

This rule making was adopted by the Department on March 29, 2023.

Fiscal Impact

This rule making does not have any fiscal impact beyond the statute it seeks to implement. The Legislative Services Agency's fiscal estimate for Senate File 2367, division II, estimates a reduction to General Fund revenue in FY 2023 of \$4.7 million, which increases to \$9.5 million in FY 2024, the first full fiscal year of the new exemption.

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 May 24, 2023.

The following rule-making action is adopted:

Adopt the following **new** rule 701—220.17(423):

701—220.17(423) Sales of diapers.

220.17(1) In general. The sales price of diapers, whether cloth or disposable, is exempt from sales tax. This includes children's diapers and adult diapers.

220.17(2) Definitions.

“*Adult diapers*” means diapers other than children's diapers.

“*Children's diapers*” means diapers marketed to be worn by children.

“*Diaper*” means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements.

This rule is intended to implement Iowa Code section 423.3(109).

[Filed 3/29/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.

ARC 7003C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to fiduciary income tax returns

The Revenue Department hereby amends Chapter 700, “Fiduciary Income Tax,” 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 sections 421.14 and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.21.

Purpose and Summary

This rule making provides updates and clarifications for the Department's automatic extension of time for filing fiduciary income tax returns. The current rule includes detailed, outdated information relevant to tax years 1986 through 1991. The automatic filing extension applicable to current tax years is incorporated by reference to the automatic extension for individual income tax. This rule making removes the outdated information and provides the relevant extension language that was previously incorporated by reference.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6919C**. No public comments were received. Since publication of the Notice, two citations were corrected in paragraph 700.5(1)“b” and subrule 700.5(3).

Adoption of Rule Making

This rule making was adopted by the Department on March 29, 2023.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on May 24, 2023.

The following rule-making action is adopted:

Rescind rule 701—700.5(422) and adopt the following **new** rule in lieu thereof:

701—700.5(422) Extension of time to file.**700.5(1) Automatic extension of time to file.**

a. If the taxpayer has paid at least 90 percent of the tax required to be shown due by the due date and has not filed a return by the due date, the director will consider that the taxpayer has requested an extension of time to file the return and will automatically grant an extension of up to six months to file the

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return. The taxpayer does not have to file an application for extension form with the department to get the automatic extension to file the return within the six-month period after the due date and not be subject to penalty. However, if the taxpayer wants to make a tax payment to ensure that at least 90 percent of the tax has been paid on or before the due date, the payment should be made with the Iowa fiduciary income tax payment voucher form. This form can be found on the department's website at tax.iowa.gov; requested by mail from the Taxpayer Services Section, P.O. Box 10457, Des Moines, Iowa 50306; or requested by telephone at (515)281-3114.

b. To determine whether or not at least 90 percent of the tax was paid on or before the due date, the aggregate amount of tax credits applicable on the return plus the tax payments made on or before the due date are divided by the tax required to be shown due on the return. The tax required to be shown on the return is the sum of the income tax, lump-sum tax, minimum tax, and the trust portion of the ESBT tax. The tax credits applicable are the credits set out in Iowa Code chapter 422, subchapter II, and Iowa Code section 422.111. The tax payments to be considered for purposes of determining whether 90 percent of the tax was paid are the withholding tax payments, estimate payments, composite tax payments, and payments made with the Iowa fiduciary income tax voucher form to ensure that 90 percent of the tax was paid timely.

c. If the aggregate of the tax credits and the tax payments is equal to or greater than 90 percent of the tax required to be shown due, the taxpayer will have met the "90 percent" test and no penalty will be assessed. However, the taxpayer will still be subject to statutory interest on any tax due when the return is filed.

d. Any tax elections will be considered to be valid in instances when the return is filed within the six-month extended period after the due date. The fact that the taxpayer has paid less than 90 percent of the tax required to be shown due will not invalidate any tax elections made on the return, if the return is filed within the six-month extended period.

700.5(2) *Extension of time to file due to illness, death, absence, or other legitimate reason.* The taxpayer is required to file the taxpayer's fiduciary income tax return on or before the due date of the return with payment in full of the amount required to be shown due with the return. However, in any instance where the taxpayer is unable to file the return by the due date because of illness or death in the taxpayer's immediate family, unavoidable absence of the taxpayer, or other legitimate reason, the director may grant a six-month extension of time to file the return.

700.5(3) *Extension of time for the decedent's final tax return.* 701—subrule 301.2(4), which provides for extensions of time to file individual income tax returns, will apply to the decedent's final tax return. This rule is intended to implement Iowa Code section 422.21.

[Filed 3/31/23, effective 5/24/23]

[Published 4/19/23]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/23.