IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making
2017

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

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
26	**Friday, June 2, 2017**	**June 21, 2017**
1	**Friday, June 16, 2017**	**July 5, 2017**
2	**Wednesday, June 28, 2017**	**July 19, 2017**

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 13, 2017, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
Human resources procedures, amendments to chs 4, 53, 54, 59 to 64, 70 Notice **ARC 3072C** 5/24/17

ATTORNEY GENERAL[61]
Statement of property owner's rights, 34.1 Notice **ARC 3068C** 5/24/17

BANKING DIVISION[187]
COMMERCE DEPARTMENT[181]"umbrella"
Regulated loans; industrial loans, chs 15, 16 Filed **ARC 3078C** 5/24/17
Delayed deposit services, ch 17 Filed **ARC 3079C** 5/24/17
Mortgage bankers, mortgage brokers, and real estate closing agents, amendments to ch 18
Filed **ARC 3080C** 5/24/17
Mortgage loan originators, amendments to ch 19 Filed **ARC 3081C** 5/24/17

BEEF INDUSTRY COUNCIL, IOWA[101]
Reinstatement of state assessment; change in agency name and address; organization and operation; public records and fair information practices, amendments to chs 1 to 5
Filed **ARC 3082C** 5/24/17

CHILD ADVOCACY BOARD[489]
INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"
Purpose and function, ch 1 Filed **ARC 3054C** 5/10/17
Rules and operation, ch 2 Filed **ARC 3055C** 5/10/17

ECONOMIC DEVELOPMENT AUTHORITY[261]
Deadline for submittal of investment tax credit application, 115.4(2) Notice **ARC 3064C** 5/24/17

EDUCATIONAL EXAMINERS BOARD[282]
EDUCATION DEPARTMENT[281]"umbrella"
PK-3, elementary education, multioccupations, career and technical education (CTE) endorsements; paraeducator area of concentration—autism spectrum disorders, amendments to chs 13, 24 Notice **ARC 3047C** 5/10/17

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
Agencies responsible for implementation of disaster-related assistance, 1.3 to 1.5 Filed **ARC 3056C** 5/10/17

HUMAN SERVICES DEPARTMENT[441]
Autism support program eligibility; crisis response service provider accreditation standards for organizational activities and staff, 22.1, 24.23, 24.24 Filed **ARC 3057C** 5/10/17
Emergency assistance, amendments to ch 58 Filed **ARC 3058C** 5/10/17
Time frame for HCBS waiver services eligibility, amendments to ch 83 Notice **ARC 3077C** 5/24/17

INSPECTIONS AND APPEALS DEPARTMENT[481]
Award of attorney fees and court costs, 11.3(1), 11.9 to 11.11, 11.14 Notice **ARC 3073C** 5/24/17
Food and consumer safety, amendments to ch 30 Notice **ARC 3052C** 5/10/17
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Home bakeries, amendments to ch 34 Notice **ARC 3051C** 5/10/17
Social gambling, rescind ch 102 Notice **ARC 3048C** 5/10/17
Amusement devices, amendments to chs 104,105 Notice **ARC 3050C** 5/10/17
Game nights, rescind ch 107 Notice **ARC 3049C** 5/10/17

LABOR SERVICES DIVISION[875]
WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"
Construction contractor registration, 150.4, 150.6(3) Filed **ARC 3059C** 5/10/17

MEDICINE BOARD[653]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Physician supervision of a physician assistant, amendments to ch 21 Notice **ARC 3069C** 5/24/17

NATURAL RESOURCE COMMISSION[571]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Waterfowl, coot and dove hunting; falconry, amendments to chs 91, 97, 102 Filed **ARC 3060C** 5/10/17

NURSING BOARD[655]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure; continuing education, 3.5, 3.7, ch 5 Notice **ARC 3046C** 5/10/17

PROFESSIONAL LICENSURE DIVISION[645]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Funeral directors, funeral establishments, cremation establishments—licensure, practice, continuing education, discipline, amendments to chs 100 to 104 Filed **ARC 3083C** 5/24/17

PUBLIC HEALTH DEPARTMENT[641]

Plumbing and mechanical systems professionals—license application, examination, licensure, continuing education, fees, amendments to chs 23, 27 to 30 Filed **ARC 3061C** 5/10/17

State plumbing code—update of references to 2015 edition of Uniform Plumbing Code, 25.1, 25.4 Filed **ARC 3062C** 5/10/17

General nuclear medicine technologist permit—computed tomography endorsement, 42.2, 42.6(4) Notice **ARC 3074C** 5/24/17

Trauma care facility categorization and verification, 134.1 to 134.3 Notice **ARC 3075C** 5/24/17

Trauma education and training, 137.1 to 137.4 Notice **ARC 3076C** 5/24/17

REAL ESTATE APPRAISER EXAMINING BOARD[193F]
Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Application for licensure—release of results and time frame for history check, 1.21, 4.1(3), 5.7(5), 6.7 Filed **ARC 3084C** 5/24/17

REAL ESTATE COMMISSION[193E]
Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Licensure of brokers, salespersons and nonresident licensees, amendments to chs 3 to 5 Notice **ARC 3065C** 5/24/17

REGENTS BOARD[681]

Promotional and lead worker pay; grievance procedure, 3.39, 3.129 Notice **ARC 3071C** 5/24/17

REVENUE DEPARTMENT[701]

Facilitating business rapid response to state-declared disasters, amend chs 12, 32, 39, 40, 46, 52 to 54, 80, 241; adopt ch 242 Filed **ARC 3085C** 5/24/17

Certain military and civilian support personnel—extension of Iowa income tax filing deadline, 39.12 Notice **ARC 3066C** 5/24/17

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Mine site registration renewal and fee, 60.31 Notice **ARC 3067C** 5/24/17

TRANSPORTATION DEPARTMENT[761]

Special permits for operation and movement of vehicles and loads of excess size and weight; compacted rubbish vehicle permits, amend ch 511; rescind ch 513 Notice **ARC 3045C** 5/10/17

UTILITIES DIVISION[199]
COMMERCE DEPARTMENT[181]"umbrella"

Access to affiliate records, requirements for annual filings, and asset and service transfers, amendments to ch 31 Filed **ARC 3063C** 5/10/17

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Unemployment insurance services division; employer records, reports, contributions and charges; claims; benefits; benefit payment control, amendments to chs 21 to 25 Notice **ARC 3070C** 5/24/17

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 Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

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

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Senator Jack Whitver
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Des Moines, Iowa 50317

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

Representative Art Staed
2141 Coldstream Avenue NE
Cedar Rapids, Iowa 52402

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Human resources procedures, amendments to chs 4, 53, 54, 59 to 64, 70 IAB 5/24/17 **ARC 3072C**	Conference Rooms 5 and 6, A Level Hoover State Office Bldg. Des Moines, Iowa	June 14, 2017 8:30 to 9:30 a.m.

EDUCATIONAL EXAMINERS BOARD[282]

PK-3, elementary education, multioccupations, career and technical education (CTE) endorsements; paraeducator area of concentration—autism spectrum disorders, amendments to chs 13, 24 IAB 5/10/17 **ARC 3047C**	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	May 31, 2017 1 p.m.

MEDICINE BOARD[653]

Physician supervision of a physician assistant, amendments to ch 21 IAB 5/24/17 **ARC 3069C**	Board Office, Suite C 400 S.W. 8th St. Des Moines, Iowa	June 13, 2017 9 a.m.

NURSING BOARD[655]

Licensure; continuing education, 3.5, 3.7, ch 5 IAB 5/10/17 **ARC 3046C**	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	May 30, 2017 8:30 to 10:30 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Trauma care facility categorization and verification, 134.1 to 134.3 IAB 5/24/17 **ARC 3075C**	Room 517 Lucas State Office Bldg. Des Moines, Iowa *To participate by conference call:* Dial 1-866-685-1580 Conference Code: 5152425604	June 13, 2017 1 to 2 p.m.
Trauma education and training, 137.1 to 137.4 IAB 5/24/17 **ARC 3076C**	Room 517 Lucas State Office Bldg. Des Moines, Iowa *To participate by conference call:* Dial 1-866-685-1580 Conference Code: 5152425604	June 13, 2017 2 to 2:30 p.m.

REAL ESTATE COMMISSION[193E]

Licensure of brokers, salespersons, and nonresident licensees, amendments to chs 3 to 5 IAB 5/24/17 **ARC 3065C**	Commission Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	June 13, 2017 12 noon

TRANSPORTATION DEPARTMENT[761]

Special permits for operation and movement of vehicles and loads of excess size and weight; compacted rubbish vehicle permits, amend ch 511; rescind ch 513 IAB 5/10/17 **ARC 3045C**	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	June 1, 2017 10 a.m. (If requested)

The following list will be updated as changes occur.

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

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

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

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ARC 3072C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services hereby gives Notice of Intended Action to amend Chapter 4, "Public Records and Fair Information Practices," Chapter 53, "Pay," Chapter 54, "Recruitment, Application and Examination," Chapter 59, "Promotion, Transfer, Temporary Assignment, Reassignment and Voluntary Demotion," Chapter 60, "Separations, Disciplinary Actions and Reduction in Force," Chapter 61, "Grievances and Appeals," Chapter 62, "Performance Review," Chapter 63, "Leave," and Chapter 64, "Benefits," and to rescind Chapter 70, "Employee Organization Dues," Iowa Administrative Code.

This rule making discusses human resources procedures. These proposed amendments extend the application of these rules to ensure equal treatment of all employees covered by these rules. These amendments further clarify existing rules to align the rules with current procedures. The proposed rescission of Chapter 70 is a result of changes to Iowa Code section 70A.19 as amended by 2017 Iowa Acts, House File 291, that prohibit the State from deducting dues for employee organizations from employee wages or salaries.

Interested persons may make written comments on the proposed amendments until 4:30 p.m. on June 14, 2017. Comments should be directed to Tami Wiencek, Department of Administrative Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-6140 or by e-mail to tami.wiencek@iowa.gov.

A public hearing will be held on June 14, 2017, from 8:30 to 9:30 a.m. in Conference Rooms 5 and 6 on Level A of the Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling (515)725-2017.

The Department anticipates that the fiscal impact resulting from the proposed changes is a potential cost savings due to the amendments to subrule 53.9(2) in Item 6 and rule 11—53.11(8A) in Item 8. These amendments align the calculation of overtime pay for employees covered by these rules with the pay standards set forth in the federal Fair Labor Standards Act. Amendments to these rules may result in a potential annual statewide savings of approximately $5 million.

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

After analysis and review of these amendments, there is no expected impact to private sector job or employment opportunities. As such, these amendments will not impact private sector job categories, the number of jobs, or potential job opportunities in any regions of the State.

These amendments are intended to implement Iowa Code section 8A.413.

The following amendments are proposed.

ITEM 1. Adopt the following **new** paragraphs **4.14(7)"e"** and **"f"**:

e. The fact that the state employee resigned in lieu of termination, was discharged, or was demoted as the result of disciplinary action and the documented reasons and rationale for the resignation in lieu of termination, the discharge, or the demotion.

f. Personnel settlement agreements between the state employee and the state employee's employer.

ITEM 2. Amend subrule 53.5(1) as follows:

53.5(1) *Individual advanced appointment rate.* For new hires~~,~~ and reinstatements, ~~or promotions of employees in contract classes,~~ the appointing authority may request pay in excess of the minimum based on education and experience directly related to duties that exceed the minimum qualifications of the class. The appointing authority shall maintain a written record of the justification for the advanced appointment rate. The record shall be a part of the official employee file. All employees possessing equivalent qualifications in the same class and with the same appointing authority may be adjusted to the advanced rate. Individual advanced appointment rates are subject to prior approval by the department.

ITEM 3. Amend subrule 53.6(3) as follows:

53.6(3) *Red-circling.* If the pay of an employee ~~in a noncontract class~~ exceeds the maximum pay for the class to which the employee is assigned, the employee's pay may be maintained (red-circled) above the maximum for up to one year. Requests to change the time period or the red-circled rate must first be submitted to the director for approval. If a request is approved, the appointing authority shall notify the employee in writing of any changes in the time period and the pay. If an employee's classification or agency changes, a request to rescind the red-circling may be submitted by the appointing authority to the director for approval. The director may also require red-circling in certain instances.

ITEM 4. Amend subrules 53.6(5) to 53.6(7) as follows:

53.6(5) *Pay grade changes.* If a transaction results in an employee ~~in a noncontract class~~ being paid in a higher pay grade, the employee's pay may be increased by up to 5 percent for each grade above the employee's current pay grade, except as provided in subrules 53.6(1) and 53.6(2). The implementation of pay grade changes for employees in contract classes ~~shall~~ may be negotiated with the applicable collective bargaining representative to the extent required. For setting eligibility dates, see subrule 53.7(5).

53.6(6) *Promotion.* For setting eligibility dates, see subrule 53.7(5).

a. ~~*Noncontract classes.*~~ If an employee is promoted ~~to a noncontract class~~, the employee may be paid at any rate in the pay grade of the pay plan to which the employee's new class is assigned, except as provided in subrules 53.6(1) and 53.6(2).

b. ~~*Contract classes.*~~ ~~If an employee is promoted to a contract-covered class, the employee shall receive a 5 percent pay increase, except as provided in subrules 53.5(1), 53.6(1), 53.6(2), and 53.6(4).~~

c. *Leadworker.* If an employee who is receiving additional pay for leadworker duties is promoted, the pay increase shall be calculated using the employee's new base pay ~~plus the leadworker pay~~.

53.6(7) *Demotion.* If an employee demotes voluntarily or is disciplinarily demoted, the employee may be paid at any pay rate within the pay grade of the pay plan to which the employee's new class is assigned that does not exceed the employee's pay at the time of demotion, except as provided in subrules 53.6(1), 53.6(2) and 53.6(4). For setting eligibility dates, see subrule 53.7(5).

ITEM 5. Amend rule 11—53.7(8A) as follows:

11—53.7(8A) Within grade increases.

53.7(1) *General.* An employee, upon completion of a minimum pay increase eligibility period, may receive a periodic increase in base pay that is within the pay grade and pay plan of the class to which the employee is assigned.

a. No change.

b. *Noncreditable periods.* Except for ~~required~~ FMLA, workers' compensation, educational, and military leave, periods of leave without pay exceeding 30 calendar days shall not count toward an employee's pay increase eligibility period.

c. No change.

53.7(2) ~~*Noncontract classes.*~~ *Employee pay increases.* An eligible employee ~~in a noncontract class~~ may be given any amount of within grade pay increase up to the maximum pay rate for the employee's class. The pay increase shall be at the beginning of the pay period following completion of the employee's prescribed minimum pay increase eligibility period and shall not be retroactive, except as provided for in subrule 53.4(7).

a. *Performance.* Within grade pay increases shall be based on performance, are not automatic, and may be delayed beyond completion of the employee's minimum pay increase eligibility period. The amount of a within grade pay increase shall be determined by policies established by the appointing authority. To be eligible, a within grade pay increase must be accompanied by a current performance evaluation on which the employee received ~~a~~ an overall rating of at least "meets job expectations." Time spent on ~~required~~ FMLA, workers' compensation, educational, or military leave shall be considered to "meet job expectations."

b. No change.

53.7(3) ~~*Contract classes.* Within grade pay increases for employees in contract classes shall be in accordance with the terms of their collective bargaining agreement.~~

53.7(4) *Certified teachers.* Within grade pay increases for employees who are required to possess a current valid teaching certificate with appropriate endorsements and approvals by the Iowa department of education shall be based on ~~length of service,~~ performance and credentials.

53.7(5) *Eligibility dates.* An employee's pay increase eligibility date shall be set at the time of hire, and if the employee starts on the first working day of the pay period, it shall be the first day of the pay period following completion of the employee's minimum pay increase eligibility period. Otherwise, it shall be the first day of the pay period following the date the employee starts work.

a. and *b.* No change.

c. *No adjustment for FMLA, workers' compensation, educational, or military leave.* An employee who returns to work from ~~required~~ FMLA, workers' compensation, educational, or military leave shall have the employee's eligibility date restored without adjusting for the period of absence.

d. and *e.* No change.

53.7(6) *Suspension.* If within grade pay increases are suspended by an Act of the general assembly, the rules that provide for such increases shall also be suspended.

ITEM 6. Amend subrules 53.8(1) and 53.8(3) as follows:

53.8(1) *Leadworker.* An employee who is temporarily assigned lead work duties, as defined in rule 11—50.1(8A), may be given additional pay of up to 15 percent ~~unless otherwise provided in an applicable collective bargaining agreement~~ of the employee's base pay.

53.8(3) *Extraordinary duty.* An employee or class of employees who ~~is~~ are temporarily assigned higher level duties, including supervisory duties, may be given additional pay ~~in step or percent increments~~. The amount of pay must be approved by the director.

ITEM 7. Amend rule 11—53.9(8A) as follows:

11—53.9(8A) Special pay.

53.9(1) *Shift differential.* If an overtime eligible employee ~~in a noncontract class~~ works for an appointing authority whose operations require other than a day shift, the employee shall receive a shift differential if scheduled to work four or more hours between 6 p.m. and 6 a.m. for two or more consecutive workweeks, or is regularly assigned to rotate shifts. The amount of the shift differential shall be determined by the director and paid in cents per hour. There shall be one rate for the 6 p.m. to midnight time period and another higher rate for the midnight to 6 a.m. time period. Employees who work in both time periods shall be paid at the rate applicable to the period in which the majority of their hours are worked. Employees who work equal amounts in both time periods shall be paid at the higher rate. The differential shall be in addition to the employee's regular base pay and shall be paid for all hours in pay status.

Employees in overtime exempt ~~noncontract~~ classes may receive a shift differential if a request is first submitted in writing and approved by the director. ~~Shift differential for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.~~

53.9(2) *Call back.* If an overtime eligible employee ~~in a noncontract class~~ is directed to report to work during unscheduled hours that are not contiguous to the beginning or the end of the employee's assigned shift, the employee shall be paid a minimum of three hours. These hours ~~shall be considered as hours worked for purposes of determining overtime, but~~ shall not count as standby hours if the employee

is in standby status. Employees in overtime exempt ~~noncontract~~ classes may be eligible for call back pay, if a request is first submitted in writing and approved by the director.

~~Call back for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.~~

53.9(3) *Standby.* If an employee in an overtime eligible ~~noncontract~~ class is directed to be on standby after the end of the employee's shift, the employee shall be paid 10 percent of the employee's hourly pay rate for each hour in a standby status. If required to be on standby, an employee shall receive at least one hour of standby pay. Time spent working while on standby shall not count in determining standby pay, nor shall standby hours count for purposes of determining overtime. Employees in overtime exempt classes may be eligible for standby pay if a request is first submitted in writing and approved by the director. ~~Standby for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.~~

53.9(4) *Discretionary payments.* A lump sum payment for exceptional job performance may be given to an employee. A written explanation setting forth the reasons shall first be submitted to the director for approval.

53.9(5) *Recruitment or retention payments.* A payment to a job applicant or an employee may be made for recruitment or retention reasons. A written explanation shall first be submitted in writing to the director.

As a condition of receiving recruitment or retention pay, the recipient must sign an agreement to continue employment with the appointing authority for a period of time following receipt of the payment that is deemed by the appointing authority to be commensurate with the amount of the payment. If the recipient is terminated for cause or voluntarily leaves state employment, the recipient will be required to repay the appointing authority for the proportionate amount of the payment for the time remaining, and it will be recouped from the final paycheck. When the recipient changes employment to another state agency, then a repayment schedule must be approved by the director. Recoupment will be coordinated with the department of administrative services, state accounting enterprise, to ensure a proper reporting of taxes.

53.9(6) *Pay for increased credentials.* An employee ~~in a noncontract classification~~ who successfully completes a course of study, a certificate program, or any educational program directly related to the employee's current employment is eligible to receive an increase in base pay at the discretion of the appointing authority. Granting an increase pursuant to this subrule will not affect an employee's pay increase eligibility date and may not exceed the maximum pay for the assigned job classification pursuant to subrule 53.6(2).

ITEM 8. Amend rule 11—53.11(8A) as follows:

11—53.11(8A) Overtime.

53.11(1) *Administration.* Job classes shall be designated by the director as overtime eligible or overtime exempt.

53.11(2) *Eligible job classes.* An employee in a job class designated as overtime eligible shall be paid at a premium rate (one and one-half hours) ~~for every hour in pay status over 40 hours in a workweek~~ in accordance with the federal Fair Labor Standards Act.

53.11(3) *Exempt job classes.* An employee in an overtime exempt job class shall not be paid for hours worked or in pay status over 40 hours in a workweek~~, except as specifically provided for in a collective bargaining agreement~~.

53.11(4) *Method of payment.* Payment of overtime for employees ~~in noncontract classes~~ shall be in cash or compensatory time. The decision shall rest with the employee, except that the appointing authority may require overtime to be paid in cash. Employees ~~in noncontract classes~~ may elect compensatory time for call back, standby, holiday hours and for working on a holiday. ~~Payment of overtime for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.~~

53.11(5) *Compensatory time.* An overtime eligible employee ~~in a noncontract class~~ may accrue up to 80 hours of compensatory time before it must be paid off. Compensatory time may be paid off at any

time, but it shall be paid off if the employee separates, transfers to a different agency, or moves to a class with a different overtime eligibility designation. ~~The paying off of compensatory time for employees in classes covered by a collective bargaining agreement shall be in accordance with the terms of the applicable agreement.~~

53.11(6) *Holiday hours.* Holiday hours that have already been paid at a premium rate shall not be counted in calculating overtime~~, except as specifically provided for in a collective bargaining agreement~~.

ITEM 9. Amend subrule 54.2(4) as follows:

54.2(4) *Application for eligible lists.* Persons may apply to be on eligible lists as follows:

a. Promotional lists. Promotional applicants shall meet the minimum qualifications. Promotional applicants may be subject to keyboard examinations, background checks, psychological examinations, and other examinations used for further screening. The following persons may apply to be on promotional eligible lists:

(1) Persons who have attained permanent employee status, including permanent employees of the board of regents ~~and community-based corrections~~;

(2) to (4) No change.

(5) ~~Noncontract employees~~ Employees who have been laid off are eligible to apply for promotional vacancies for a period of one year from the date of layoff.

b. All-applicant lists. The following persons may apply to be on all-applicant lists:

(1) to (4) No change.

(5) Permanent employees, including permanent employees of the board of regents ~~and community-based corrections~~;

(6) No change.

(7) Nonpermanent employees of the board of regents ~~and community-based corrections~~; and

(8) No change.

ITEM 10. Amend rule 11—59.1(8A) as follows:

11—59.1(8A) Promotion. An appointing authority may promote an employee with permanent status if the employee meets the minimum qualifications and other promotional screening requirements for the position. The employee must be on the list of eligibles for the position and available under the conditions stated on the list request. Vacancies must be filled in accordance with 11—Chapter 56.

ITEM 11. Amend rules 11—59.4(8A) and 11—59.5(8A) as follows:

11—59.4(8A) Voluntary demotion. An appointing authority may grant an employee's written request for a demotion to a lower class. If the voluntary demotion involves movement from a position covered by merit system provisions to one that is not, the request must clearly indicate the employee's knowledge of the change in merit system coverage. If the employee objects to the change in coverage, the demotion shall not take effect. Also, no demotion shall be made from one position covered by merit system provisions to another, or from a position not covered by merit system provisions to one that is, until the employee is approved by the director as being qualified. A copy of the voluntary demotion request shall be sent by the appointing authority to the director at the time of the demotion.

Voluntary demotion may be either intra-agency or interagency, and shall not be subject to appeal under these rules. Vacancies must be filled in accordance with 11—Chapter 56.

11—59.5(8A) Transfer. Transfers are restricted to the movement of an employee to a vacant position of the same or different job class in the same pay grade. Transfers may be interagency or intra-agency. To be eligible to transfer, the employee must meet any minimum qualifications and selective requirements for the position. Vacancies must be filled in accordance with 11—Chapter 56.

An employee may request a voluntary transfer. The decision to grant or deny ~~the~~ a request for voluntary transfer is made by the receiving appointing ~~authority's~~ authority.

An appointing authority may involuntarily transfer an employee. To do so, any applicable collective bargaining agreement provisions regarding transfer must first be exhausted. ~~Transfers may be~~

~~interagency or intra-agency.~~ Involuntary interagency transfers require the approval of both the sending and the receiving appointing authorities.

~~To be eligible to transfer, the employee must meet any minimum qualifications and selective requirements for the position.~~

If the transfer of an employee would result in the loss of merit system coverage, the transfer shall not take place without the affected employee's written consent to the change in merit system coverage. A copy of the consent letter shall be forwarded by the appointing authority to the director. If the employee does not consent to the change in coverage, a reduction in force may be initiated in accordance with these rules or the applicable collective bargaining agreement.

ITEM 12. Amend rule 11—60.2(8A) as follows:

11—60.2(8A) Disciplinary actions. Except as otherwise provided, in addition to less severe progressive discipline measures, any employee is subject to any of the following disciplinary actions when the action is based on a standard of just cause: suspension, reduction of pay within the same pay grade, disciplinary demotion, or discharge. Disciplinary action involving employees covered by collective bargaining agreements shall be in accordance with the provisions of the agreement, if any. Disciplinary action shall be based on any of the following reasons: inefficiency, insubordination, less than competent job performance, refusal of a reassignment, failure to perform assigned duties, inadequacy in the performance of assigned duties, dishonesty, improper use of leave, unrehabilitated substance abuse, negligence, conduct which adversely affects the employee's job performance or the agency of employment, conviction of a crime involving moral turpitude, conduct unbecoming a public employee, misconduct, or any other just cause.

60.2(1) Suspension.

a. Suspension pending investigation. An appointing authority may suspend an employee for up to 21 calendar days with pay pending an investigation. A suspension pending investigation may be extended with approval from the director. If, upon investigation, it is determined that a suspension without pay was warranted as provided in subparagraph 60.2(1)*"b"*(1) below for an employee covered by the premium overtime provisions of the Fair Labor Standards Act, the appointing authority shall recover the pay received by the employee for the imposed period of suspension without pay.

b. No change.

60.2(2) to **60.2(6)** No change.

ITEM 13. Amend subparagraph **60.3(3)"b"(2)** as follows:

(2) A performance evaluation period rated overall as "competent" or better, or "meets or exceeds expectations" or for which the "overall sum of ratings" is 3.00 or greater shall receive one retention point for each month of such rated service.

All employees shall be evaluated for performance in accordance with 11—subrule 62.2(2). If the period covered on the evaluation exceeds 12 months, the rating shall apply only to the most recent 12 months of the period. If the period covered by the evaluation exceeds 12 months and the employee's overall rating mandates the receipt of no credit pursuant to subparagraph 60.3(3)*"b"*(1), then that overall rating shall apply only to the first 12 months of the period and the remaining months shall be rated as competent. Time spent on ~~approved~~ FMLA, workers' compensation, military ~~leave, workers' compensation leave~~, or educational leave with or without pay that is required by the appointing authority shall be counted as competent performance.

ITEM 14. Amend paragraph **60.3(5)"c"** as follows:

c. When bumping as set forth in paragraph 60.3(5)*"b,"* the employee shall indicate the class, but the appointing authority shall designate the specific position assignment within the reduction in force unit. The appointing authority may designate a vacant position if the department of management certifies that funds are available and after all applicable contract transfer and recall provisions have been exhausted. The appointing authority shall notify the employee in writing of the exact location of the position to which the employee will be assigned. After receipt of the notification, the employee shall

have five calendar days in which to notify the appointing authority in writing of the acceptance of the position or be laid off.

Bumping to ~~another noncontract class~~ a merit-covered position in lieu of layoff shall be based on retention points regardless of full-time or part-time status and shall not occur if the result would be to cause the removal or reduction of an employee with more total retention points except as provided for in this subrule. If bumping occurs, the employee with the fewest total retention points in the class shall then be subject to reduction in force.

Pay upon bumping shall be in accordance with 11—subrule 53.6(11).

ITEM 15. Amend subrule 61.1(1) as follows:

61.1(1) *Grievance procedure.*

a. Step 1. The grievant shall initiate the grievance by submitting it in writing to the immediate supervisor, or to a supervisor designated by the appointing authority, within 14 calendar days following the day the grievant first became aware of, or should have through the exercise of reasonable diligence become aware of, the grievance issue. The immediate supervisor shall, within ~~seven~~ 14 calendar days after the day the grievance is received, attempt to resolve the grievance within the bounds of these rules and give a decision in writing to the grievant with a copy to the director.

b. Step 2. If the grievant is not satisfied with the decision obtained at the first step, the grievant may, within ~~seven~~ 7 calendar days after the day the written decision at the first step is received or should have been received, file the grievance in writing with the appointing authority. The appointing authority shall, within ~~seven~~ 14 calendar days after the day the grievance is received, attempt to resolve the grievance within the bounds of these rules~~,~~ by affirming, modifying, or reversing the decision made at the first step, or otherwise grant appropriate relief. The decision shall be given to the grievant in writing with a copy to the director.

c. Step 3. If the grievant is not satisfied with the decision obtained at the second step, the grievant may, within 7 calendar days after the day the written decision at the second step was received, or should have been received, file the grievance in writing with the director. The director shall, within 30 calendar days after the day the grievance is received, attempt to resolve the grievance and send a decision in writing to the grievant with a copy to the appointing authority. The director may affirm, modify, or reverse the decision made at the second step or otherwise grant appropriate relief. If the relief sought by the grievant is not granted, the director's response shall inform the grievant of the appeal rights in subrule 61.2(5).

d. If the grievant is not satisfied with the decision obtained from the third step, the grievant may file an appeal in accordance with subrule 61.2(5).

ITEM 16. Amend subrule 61.1(4) as follows:

61.1(4) *Grievance meetings.*

a. No change.

b. The grievant may be ~~represented~~ assisted at a grievance meeting by an employee with the same bargaining status as the grievant. This peer employee may be of the grievant's choosing except where that would constitute a conflict of interest or unreasonably impact the operational efficiency of an appointing authority as determined by the director. ~~A grievant who wishes to be represented and whose class is covered by a collective bargaining agreement may only be represented by an appointed or elected union representative from the same employee organization as the grievant. A grievant who wishes to be represented and whose class is not covered by a collective bargaining agreement may only be represented by an employee with the same bargaining status as the grievant.~~

c. The grievant, an employee who is the grievant's ~~representative~~ peer, and employees authorized to attend the grievance meeting by the appointing authority or the director shall be in paid status for that time spent at and traveling to and from the grievance meeting during their regularly scheduled hours of work. In addition, employees shall, if eligible for overtime compensation, be in paid status for that time spent at and traveling to and from the grievance meeting outside of their regularly scheduled hours of work. In the case of a group grievance, only one of the grievants shall be in paid status. A grievant's peer shall not process or prepare for a grievance during work time except for meal and rest periods.

d. The appointing authority shall not authorize mileage, or the use of a state vehicle for employees to attend or participate in a grievance meeting, except for those employees who are required to attend or participate in the meeting by the appointing authority or the director. ~~In the case of group grievances, only one of the grievants shall be in paid status.~~

ITEM 17. Amend subrules 61.2(5) and 61.2(6) as follows:

61.2(5) *Appeal of grievance decisions.* An employee who has alleged a violation of Iowa Code sections 8A.401 to 8A.458 or the rules adopted to implement Iowa Code sections 8A.401 to 8A.458 may, within 30 calendar days after the date the director's response at the third step of the grievance procedure was issued or should have been issued, file an appeal with the public employment relations board. A nontemporary~~, noncontract~~ employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, may, if not satisfied with the decision of the director, request an appeal hearing before the public employment relations board within 30 calendar days after the date the director's decision was issued or should have been issued. However, when the grievance concerns allegations of discrimination within the meaning of Iowa Code chapter 216, the Iowa civil rights commission procedures shall be the exclusive remedy for appeal and shall, in such instances, constitute final agency action. In all other instances, decisions by the public employment relations board constitute final agency action.

61.2(6) *Appeal of disciplinary actions.* Any nontemporary~~, noncontract~~ employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, may bypass steps one and two of the grievance procedure provided for in rule 11—61.1(8A) and may file an appeal in writing to the director for a review of the action within 7 calendar days after the effective date of the action. The appeal shall be on the forms prescribed by the director. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal. The time may be extended by mutual agreement of the parties. If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board as provided in subrule 61.2(5).

ITEM 18. Amend rule 11—61.3(8A) as follows:

11—61.3(8A) Informal settlement. The director or an appellant may request that an informal conference be held to determine if a dispute can be resolved in a manner agreeable to all parties prior to a contested case hearing. If the director and the appellant agree to negotiate a settlement, the various points of the proposed settlement shall be included in a written statement of facts. Negotiations for a settlement shall be completed at least five workdays prior to the date of the contested case hearing, unless additional time is agreed to by the director, the appellant and the public employment relations board, the department of inspections and appeals, or the classification appeal committee, as applicable. The settlement shall not be binding ~~when~~ until approved ~~and signed by both the director and the appellant~~ in accordance with the procedures set forth in 2017 Iowa Acts, House File 291, section 51.

ITEM 19. Amend subrule 62.2(2) as follows:

62.2(2) *Performance evaluation.* A performance evaluation shall be prepared for each employee at least every 12 months. Additional evaluations may be prepared at the discretion of the supervisor. Ratings on the evaluation form are to be accompanied by descriptive comments supporting the ratings. The evaluation may also include job-related comments concerning achievements or areas of strength, areas for improvement, and training/development plans. The supervisor or team shall discuss the evaluation with the employee, and the employee shall be given the opportunity to attach written comments. Periods of service during FMLA, workers' compensation, military, or educational leave ~~required by the appointing authority, or military leave,~~ shall be considered as meeting job expectations.

Exit performance reviews shall be completed by the former supervisor on or before the last day before the movement of an employee to employment in another section, bureau, division or agency of

state government. This review shall be for the period between the previous review up to the movement to the other position. A copy shall be forwarded to the new supervisor of the employee.

ITEM 20. Amend paragraph **63.2(2)"o"** as follows:

o. If on June 1 an employee has a balance of 160 or more hours of accrued leave, the employer may, with the approval of the employee, pay the employee for up to 40 hours of the accrued annual leave. This amount will be paid ~~on a separate warrant~~ on the payday which represents the last pay period of the fiscal year. Decisions regarding these payments will be made by each department director and are not subject to the grievance procedure provided for in these rules. ~~This paragraph applies only to employees not covered by a collective bargaining agreement.~~

ITEM 21. Amend subrule 63.4(8) as follows:

63.4(8) The appointing authority may request periodic reports concerning the employee's medical status, and the date the employee may return to work. Requests for periodic reports will be made no more often than necessary depending on the facts and circumstances of each case and shall not exceed one request every 30 days absent extenuating circumstances.

The appointing authority shall require written certification from the health care provider that the employee is able to resume work before allowing an employee with a serious health condition to return from FMLA leave. Upon return from FMLA leave, the employee shall be placed in a position in the same class held prior to the leave, or a class in the same pay grade for which the employee qualifies, with the same pay, benefits, terms and conditions of employment, and geographical proximate location, except that~~:~~

~~*a.* If~~ if a reduction in force occurs while the employee is on leave, the employee's right to a position shall be established in accordance with 11—Chapter 60.

~~*b.* The employee's pay increase eligibility date shall be adjusted for absences of more than 30 calendar days.~~

ITEM 22. Amend subrule 63.4(14) as follows:

63.4(14) Retention of vacation leave. Notwithstanding subrule 63.4(3), ~~non-contract-covered~~ employees who qualify for FMLA leave are eligible to retain up to two weeks (80 hours) of accrued vacation leave in each fiscal year. An employee must elect, using forms prescribed by the department, to retain vacation by submitting the form to the employer no later than seven calendar days from the date it is determined that the employee's leave is covered by FMLA. An employee will not be permitted to retain more vacation than is in the employee's vacation bank at the time of election. Once the election is made, it cannot be increased; however, it may be reduced, at any time, to less than 80 hours. An employee will not be eligible to retain any donated leave.

~~For employees covered by a collective bargaining agreement, the retention of vacation leave will be governed by the collective bargaining agreement.~~

ITEM 23. Amend subrule 63.5(3) as follows:

63.5(3) Employees who do not supplement workers' compensation with sick leave, vacation or compensatory leave, and who are kept on the payroll in a nonpay status for more than 30 calendar days, shall be placed on leave without pay for purposes of probationary periods~~, pay increase eligibility,~~ and other benefits. A written statement to this effect shall be sent to the employee within three days following the action by the appointing authority.

ITEM 24. Amend rule 11—64.1(8A) as follows:

11—64.1(8A) Health benefits. The director is authorized by the executive council of Iowa to administer health benefit programs for employees of the state of Iowa who are covered under Iowa Code chapter 509A. The executive council of Iowa shall determine the amount of the state's contribution toward each individual ~~non-contract-covered~~ employee's premium cost and shall authorize the remaining premium cost to be deducted from the employee's pay. The state's contribution for each contract-covered employee shall be as provided for in applicable collective bargaining agreements negotiated in accordance with Iowa Code chapter 20.

ITEM 25. Amend subrule 64.13(1) as follows:

64.13(1) *Employee eligibility.* All nontemporary employees who work at least 1040 hours per calendar year are eligible to participate in the health flexible spending account plan. Temporary employees are not eligible to participate in this plan. ~~Employees subject to a collective bargaining agreement shall have their eligibility determined by the collective bargaining agreement.~~

ITEM 26. Amend rule 11—64.16(8A), introductory paragraph, as follows:

11—64.16(8A) Sick leave insurance program. The director is authorized to establish a sick leave insurance program (program) for employees ~~not covered by a collective bargaining agreement~~. The program shall allow eligible employees to convert a portion of their sick leave balance at retirement into a sick leave bank with which the state will pay the state's share of retiree health insurance. Employees of the department of natural resources or department of public safety who are classified as peace officers and are not covered by a collective bargaining agreement shall receive benefits at retirement consistent with the provisions of the negotiated collective bargaining agreement with the State Police Officers Council. The benefits for sick leave banks earned by all department of public safety peace officer employees shall be administered by the department of public safety.

ITEM 27. Rescind and reserve **11—Chapter 70**.

ARC 3068C

ATTORNEY GENERAL[61]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 6B.2A(1)"f," the Attorney General hereby gives Notice of Intended Action to amend Chapter 34, "Acquisition Negotiation Statement of Rights," Iowa Administrative Code.

The limited purpose of the proposed amendment is to conform one provision in rule 61—34.1(6B) more closely to the statutory language appearing at 2017 Iowa Code section 6B.54(4).

Any interested person may make written suggestions or comments on the proposed amendment on or before June 13, 2017. Such written materials should be directed to David L. Dorff, Assistant Attorney General, Environmental Division, Iowa Attorney General's Office, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319; fax (515)281-4209; or via e-mail to David.Dorff@iowa.gov. Persons who wish to convey their views orally should contact Mr. Dorff at (515)281-6710 or at the office of the Environmental Division on the second floor of the Hoover State Office Building.

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

This amendment is intended to implement Iowa Code section 6B.2A(1)"f."

The following amendment is proposed.

Amend rule **61—34.1(6B)**, Statement of property owner's rights, by rescinding paragraph **"11"** and adopting the following **new** paragraph in lieu thereof:

11. A notice of the scheduling of construction or development of a public improvement which shall, to the greatest extent practicable, not require a person lawfully occupying the real property to move from a dwelling or to move the person's business or farm operation without at least 90 days' written notice of the date by which the move is required. (Iowa Code section 6B.54(4))

ARC 3064C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 15E.43, the Economic Development Authority hereby gives Notice of Intended Action to amend Chapter 115, "Tax Credits for Investments in Qualifying Businesses and Community-Based Seed Capital Funds," Iowa Administrative Code.

The proposed amendment changes the deadline for submission of investment tax credit applications under the Angel Investor Tax Credit Program. Previously, investors who were approved for investment tax credits under the program were required to wait three years after the investment was made before claiming the investment tax credit, pursuant to Iowa Code section 15E.43. These investment tax credit awards may now be claimed beginning in the tax year in which the investment was made. The proposed amendment to the deadline will ensure that there is sufficient time to review applications for eligibility, present applications to the Economic Development Authority Board for approval of an award and mail certificates to investors prior to the income tax filing deadline.

The Economic Development Authority Board approved this amendment at its meeting held on April 21, 2017.

Interested persons may submit comments on the proposed amendment on or before June 13, 2017. Comments may be submitted to Kristin Hanks-Bents, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-0440; e-mail kristin.hanks-bents@iowaeda.com.

This amendment does not have any fiscal impact to the state of Iowa.

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

This amendment is intended to implement Iowa Code section 15E.43.

The following amendment is proposed.

Amend subrule 115.4(2) as follows:

115.4(2) Applications shall be date- and time-stamped by the authority in the order in which such applications are received. Applications for the investment tax credit shall be accepted by the authority until ~~March 31~~ January 31 of the year following the calendar year in which the taxpayer's equity investment was made. For investments made on or after July 2, 2015, and before January 1, 2016, applications for the investment tax credit shall be accepted by the authority until August 17, 2016.

EXAMPLE 1: A taxpayer makes an equity investment in a qualifying business on December 31, ~~2011~~ 2017. The taxpayer has until ~~March 31, 2012~~ January 31, 2018, to apply to the authority for an investment tax credit.

EXAMPLE 2: A taxpayer makes an equity investment in a qualifying business on July 1, ~~2012~~ 2017. The taxpayer has until ~~March 31, 2013~~ January 31, 2018, to apply to the authority for an investment tax credit.

The authority may accept applications after the deadline under extenuating circumstances.

ARC 3077C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

These proposed amendments will allow home- and community-based services (HCBS) waiver service members who are inpatients in a hospital or medical institution for 31 to 120 days to resume waiver services upon discharge without having to reapply and go back on the waiver wait list. Currently, if a member is an inpatient for more than 30 days, the HCBS waiver is canceled and the member must reapply and be placed on the waiver wait list. This often results in a gap in services between the member's discharge from the facility and the resumption of waiver services once the application has been processed. This also results in nonpayment issues for providers who will also resume services following a member's inpatient stay only to discover that the member is no longer eligible for HCBS waiver services and that the member must reapply for the waiver.

Any interested person may make written comments on the proposed amendments on or before June 13, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend paragraph **83.3(4)"d"** as follows:

d. Eligibility continues until the member has been in a medical institution for ~~30~~ 120 consecutive days for other than respite care. Members who are inpatients in a medical institution for ~~30~~ 120 or more consecutive days for other than respite care shall be terminated from health and disability waiver services and reviewed for eligibility for other Medicaid coverage groups. The member will be notified of that decision through Form 470-0602, Notice of Decision. If the member returns home before the effective date of the notice of decision and the member's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 2. Amend paragraph **83.8(2)"c"** as follows:

c. The member receives care in a hospital, nursing facility, or intermediate care facility for persons with an intellectual disability for ~~30~~ 120 days in any one stay for purposes other than respite care.

ITEM 3. Amend paragraph **83.23(4)"c"** as follows:

c. Eligibility continues until the consumer has been in a medical institution for ~~30~~ 120 consecutive days for other than respite care or fails to meet eligibility criteria listed in rule 441—83.22(249A). Consumers who are inpatients in a medical institution for ~~30~~ 120 or more consecutive days for other than respite care shall be terminated from elderly waiver services and reviewed for eligibility for other Medicaid coverage groups. The consumer will be notified of that decision through Form 470-0602, Notice of Decision. If the consumer returns home before the effective date of the notice of decision and

the consumer's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 4. Amend paragraph **83.28(2)"c"** as follows:

c. The client receives care in a hospital or nursing facility for ~~30~~ 120 days in any one stay for purposes other than respite care.

ITEM 5. Amend paragraph **83.43(4)"c"** as follows:

c. Eligibility for the waiver continues until the recipient has been in a medical institution for ~~30~~ 120 consecutive days for other than respite care or fails to meet eligibility criteria listed in rule 441—83.42(249A). Recipients who are inpatients in a medical institution for ~~30~~ 120 or more consecutive days for other than respite care shall be reviewed for eligibility for other Medicaid coverage groups and terminated from AIDS/HIV waiver services if found eligible under another coverage group. The recipient will be notified of that decision through Form 470-0602, Notice of Decision. If the consumer returns home before the effective date of the notice of decision and the person's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 6. Amend paragraph **83.48(2)"c"** as follows:

c. The client receives care in a hospital or nursing facility for ~~30~~ 120 days or more in any one stay for purposes other than respite care.

ITEM 7. Amend paragraph **83.62(4)"d"** as follows:

d. Eligibility continues until the consumer fails to meet eligibility criteria listed in rule 441—83.61(249A). Consumers who are inpatients in a medical institution for ~~30~~ 120 consecutive days shall receive a review by the interdisciplinary team to determine additional inpatient needs for possible termination from the HCBS program. Consumers shall be reviewed for eligibility under other Medicaid coverage groups. The consumer or legal representative shall participate in the review and receive formal notification of that decision through Form 470-0602, Notice of Decision.

If the consumer returns home before the effective date of the notice of decision and the consumer's needs can still be met by the HCBS waiver services, the denial may be rescinded and eligibility may continue.

ITEM 8. Amend paragraph **83.83(3)"c"** as follows:

c. Eligibility for the waiver continues until the consumer fails to meet eligibility criteria listed in rule 441—83.82(249A). Consumers who return to inpatient status in a medical institution for more than ~~30~~ 120 consecutive days shall be reviewed by the IME medical services unit to determine additional inpatient needs for possible termination from the brain injury waiver. The consumer shall be reviewed for eligibility under other Medicaid coverage groups in accordance with rule 441—76.11(249A). The consumer shall be notified of that decision through Form 470-0602, Notice of Decision.

If the consumer returns home before the effective date of the notice of decision and the consumer's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 9. Amend paragraph **83.103(3)"c"** as follows:

c. Eligibility for the waiver continues until the consumer fails to meet eligibility criteria listed in subrule 83.102(1). Consumers who return to inpatient status in a medical institution for more than ~~30~~ 120 consecutive days shall be reviewed by the IME medical services unit to determine additional inpatient needs for possible termination from the physical disability waiver. The consumer shall be reviewed for eligibility under other Medicaid coverage groups in accordance with rule 441—76.11(249A). The consumer shall be notified of that decision through Form 470-0602, Notice of Decision.

If the consumer returns home before the effective date of the notice of decision and the consumer's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 10. Amend paragraph **83.125(2)"b"** as follows:

b. The consumer is an inpatient of a medical institution for ~~30~~ 120 or more consecutive days.

(1) After the consumer has spent ~~30~~ 120 consecutive days in a medical institution, the local office shall terminate the consumer's waiver eligibility and review the consumer for eligibility under other

Medicaid coverage groups. The local office shall notify the consumer and the consumer's parents or legal guardian through Form 470-0602, Notice of Decision.

(2) If the consumer returns home after ~~30~~ 120 consecutive days ~~but no more than 60 days~~, the consumer must reapply for children's mental health waiver services, and the IME medical services unit must redetermine the consumer's level of care.

ITEM 11. Amend paragraph **83.128(2)"c"** as follows:

c. The consumer receives care in a hospital, nursing facility, psychiatric hospital serving children under the age of 21, or psychiatric medical institution for children for ~~30~~ 120 days in any one stay.

ARC 3073C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 10A.801 as amended by 2017 Iowa Acts, House File 640, and section 724.21A as amended by 2017 Iowa Acts, House File 517, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 11, "Procedure for Contested Cases Involving Permits to Carry Weapons and Acquire Firearms," Iowa Administrative Code.

The proposed amendments implement 2017 Iowa Acts, House File 517, section 27, which amends Iowa Code section 724.21A to provide for the award of attorney fees and court costs to certain prevailing parties in appeals involving permits to carry weapons and acquire firearms. The amendments require that the notice of hearing inform the parties of the potential award of attorney fees and court costs and provide a procedure for the administrative law judge to determine the amount of any attorney fee award.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 13, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

The Department does not believe that the proposed amendments impose any additional financial hardship on any regulated entity, body, or individual, beyond the impact of the amended statute being implemented.

No waiver provision is included in these rules because the statute the rules implement is mandatory and the rules govern the procedures to be used in contested case proceedings, which include other safeguards for the administrative law judge to ensure that the parties are provided a fair, impartial, and individualized hearing.

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

These amendments are intended to implement Iowa Code section 10A.801 as amended by 2017 Iowa Acts, House File 640, and section 724.21A as amended by 2017 Iowa Acts, House File 517.

The following amendments are proposed.

ITEM 1. Amend subrule 11.3(1) as follows:

11.3(1) The notice of hearing shall contain the following information:

a. A statement of the time, place, and nature of the hearing;

b. A statement of the legal authority and jurisdiction under which the hearing is to be held;

c. A reference to the agency decision on appeal;

d. Identification of the parties;

e. Reference to the procedural rules governing the contested case proceeding;

f. Identification of the administrative law judge, including the judge's ~~address and telephone number~~ contact information; ~~and~~

g. Notification that failure to appear and participate in the contested case proceeding may result in the entry of a default judgment~~.~~;

h. Notification that the applicant or permittee shall be required to pay the agency's reasonable attorney fees and court costs if the agency's decision is affirmed in the contested case proceeding or in subsequent judicial review of the proceeding, or if the applicant or permittee withdraws or dismisses the contested case proceeding or subsequent judicial review action; and

i. Notification that the agency shall be required to pay the applicant's or permittee's reasonable attorney fees and court costs if it is determined in the contested case proceeding or in subsequent judicial review of the proceeding that the applicant or permittee is eligible to be issued or to possess the permit that was denied, suspended, or revoked.

ITEM 2. Amend rule 481—11.9(17A) as follows:

481—11.9(17A) Withdrawals and dismissals. A request for withdrawal or dismissal of the appeal may be made with the division prior to the hearing. Either request must be in writing or secured on the record.

11.9(1) *Withdrawals.* An applicant or permittee who requested a contested case proceeding may request a withdrawal of the appeal. Upon receipt of a request for withdrawal of the appeal, the administrative law judge shall issue an order dismissing the appeal and ~~closing the case~~ addressing the award of attorney fees pursuant to rule 481—11.11(10A).

11.9(2) *Dismissals.* An agency may request a dismissal of the appeal by agreeing to grant the entire relief sought by the applicant or permittee. The administrative law judge shall review a request for dismissal to determine whether it grants all relief requested in the appeal. If the request grants all relief requested in the appeal, the administrative law judge shall issue an order dismissing the appeal, ordering the agency to grant the relief requested, determining that no attorney fees are to be awarded, and closing the case.

ITEM 3. Amend rule 481—11.10(17A) as follows:

481—11.10(17A) Default. If a party fails to appear after proper service of notice, the administrative law judge may enter a default order against the party or may proceed with the hearing and make a decision in the absence of the party. The default order or decision made in the absence of the party shall address the award of attorney fees pursuant to rule 481—11.11(10A).

ITEM 4. Rescind rule 481—11.11(10A) and adopt the following **new** rule in lieu thereof:

481—11.11(10A) Attorney fees, court costs, and contested case costs.

11.11(1) *Attorney fees.* In a decision rescinding or sustaining the agency's denial, suspension, or revocation of the permit or otherwise granting a request to withdraw or dismiss the appeal, the administrative law judge shall determine whether a party is entitled to an award of attorney fees consistent with paragraph 11.11(1)*"a"* or *"b."* If a party is entitled to an award, the decision shall inform the parties of the applicable procedure provided in paragraph 11.11(1)*"c"* for determining the amount of such an award unless the administrative law judge determines the amount of an award in the decision as provided for in paragraph 11.11(1)*"f."*

a. If the administrative law judge rescinds the agency's denial, suspension, or revocation of the permit and determines the applicant or permittee is eligible to be issued or to possess the permit, the applicant or permittee shall be awarded any reasonable attorney fees. A dismissal of the appeal at the request of the agency under subrule 11.9(2) is not a determination that the applicant or permittee is eligible to be issued or to possess the permit and does not entitle the applicant or permittee to an award of attorney fees. An applicant or permittee who is not represented by an attorney in the contested case proceeding is not entitled to an award of attorney fees.

b. If the administrative law judge affirms the agency's denial, suspension, or revocation of the permit or grants the applicant's or permittee's request to withdraw or dismiss the appeal, the agency

shall be awarded any reasonable attorney fees. Such an award to the agency shall be made to the political subdivision of the state representing the sheriff or to the state department representing the commissioner as applicable. An agency is not entitled to an award of attorney fees if the agency requests dismissal of the appeal under subrule 11.9(2) or if the agency is not represented by an attorney in the contested case proceeding.

c. Within 14 days of the date of a decision in which the administrative law judge determines that a party is entitled to an award of attorney fees, the party shall file a request for attorney fees and documentation supporting the request or a joint statement with the other party agreeing to the amount of reasonable attorney fees. Within 7 days of the filing of a request for attorney fees, the other party may file a resistance, including any relevant evidence, or a statement agreeing to the requested attorney fees. Upon request of either party or on the administrative law judge's own motion, a hearing may be scheduled on the issue of the attorney fee award.

d. If the party fails to file a request for attorney fees or a joint statement within 14 days, the administrative law judge shall issue an order determining that no attorney fees are awarded in the case. If the parties agree to the amount of reasonable attorney fees to be awarded, the administrative law judge shall issue an order awarding attorney fees consistent with the agreement. In all other cases, the administrative law judge shall issue a written order determining the reasonable attorney fees in the case.

e. The administrative law judge's decision is not final for purposes of rehearing under rule 481—11.14(17A) or judicial review under Iowa Code chapter 17A until the administrative law judge has issued a written decision determining the amount of any attorney fees to be awarded under this subrule or determining that no attorney fees are to be awarded.

f. If an application for rehearing under rule 481—11.14(17A) is denied, no additional attorney fees shall be awarded to either party. If an application for rehearing is granted, all the provisions of this subrule apply to the rehearing proceedings unless the only relief sought on rehearing relates to the attorney fee award. If the only relief sought relates to the attorney fee award, the order granting the application for rehearing shall provide that a party opposing the requested relief may file a resistance, including any relevant evidence, within 7 days of the date of the order and shall schedule a hearing or provide that a hearing may be scheduled upon the request of either party. In such a case, the administrative law judge shall issue a single final decision regarding the attorney fee award.

g. Any attorney fees awarded under this subrule shall be paid to the awarded party within 30 days of the issuance of an order determining the amount of attorney fees awarded unless an interested party seeks rehearing under rule 481—11.14(17A) or judicial review under Iowa Code chapter 17A or the parties agree to an alternative payment schedule. If a party seeks rehearing under rule 481—11.14(17A), the attorney fees shall be paid within 30 days of the denial of the application for rehearing or of any final decision awarding attorney fees after the grant of an application for rehearing. If a party seeks judicial review under Iowa Code chapter 17A, the attorney fee award shall be stayed pending resolution of the judicial review action. A party awarded attorney fees is responsible for taking any necessary action to enforce the award if payment is not made.

11.11(2) *Court costs and attorney fees on judicial review.* Any request for the award of court costs or for attorney fees incurred after the entry of an order determining reasonable attorney fees may only be made to the court in a judicial review action under Iowa Code chapter 17A, unless a party requests rehearing under rule 481—11.14(17A), in which case reasonable attorney fees may be awarded by the administrative law judge related to the request for rehearing consistent with paragraph 11.11(1)*"f."*

11.11(3) *Contested case costs.* Costs of the division in conducting the contested case proceeding shall be paid by the agency within 30 days of receiving a division invoice for services.

This rule is intended to implement Iowa Code section 10A.801 as amended by 2017 Iowa Acts, House File 640, and section 724.21A as amended by 2017 Iowa Acts, House File 517.

ITEM 5. Amend rule 481—11.14(17A) as follows:

481—11.14(17A) Rehearing. An applicant, permittee, or agency aggrieved by an administrative law judge's final decision rescinding or sustaining the agency's denial, suspension, or revocation may request rehearing. A request for rehearing shall be made by filing an application for rehearing with the division

within 20 days of the date of the administrative law judge's final decision and must state the specific grounds for the rehearing and the relief sought. If the only relief sought relates to the award of attorney fees, the application must include any argument and relevant evidence to be considered on rehearing. An application for rehearing shall be deemed to have been denied unless the administrative law judge grants the application within 20 days after its filing. A request for rehearing is not necessary to exhaust administrative remedies.

This rule is intended to implement Iowa Code ~~sections~~ section 724.21A as amended by 2017 Iowa Acts, House File 517, and section 17A.16.

ARC 3069C

MEDICINE BOARD[653]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Medicine hereby proposes to amend Chapter 21, "Physician Supervision of a Physician Assistant," Iowa Administrative Code.

The purpose of Chapter 21 is to establish factors that would render a physician ineligible to supervise a physician assistant. The proposed amendments establish that a physician is ineligible to supervise a physician assistant if the physician does not have a written supervisory agreement in place with each physician assistant supervised by the physician.

The Board approved this Notice of Intended Action on April 28, 2017.

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on June 13, 2017. Such written materials should be sent to Mark Bowden, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686; or sent by e-mail to mark.bowden@iowa.gov.

There will be a public hearing on June 13, 2017, at 9 a.m. at the Board's office, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

After analysis and review of this rule making, no negative impact on private sector jobs and employment opportunities within the state of Iowa has been found. Other than requiring a written supervisory agreement on a simple form approved by the Board, the essential elements of the supervisory agreement are existing requirements found in the Iowa Code and Iowa Administrative Code.

These amendments are intended to implement Iowa Code chapters 147, 148 and 272C.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 21.1(3):

21.1(3) The physician does not have a written supervisory agreement in place with each physician assistant supervised by the physician.

ITEM 2. Amend rule 653—21.3(148) as follows:

653—21.3(148) Board notification. A physician who supervises a physician assistant shall notify the board of the supervisory relationship within 30 days of the provision of initial supervision and at the time of the physician's license renewal.

ITEM 3. Renumber rules **653—21.4(148,272C)** to **653—21.7(17A,147,148,272C)** as **653—21.5(148,272C)** to **653—21.8(17A,147,148,272C)**.

ITEM 4. Adopt the following **new** rule 653—21.4(148,272C):

653—21.4(148,272C) Supervisory agreements. Each physician who supervises a physician assistant shall, using a form approved by the board, establish a written supervisory agreement prior to supervising a physician assistant. The purpose of the supervisory agreement is to define the nature and extent of the supervisory relationship and the expectations of each party. The supervisory agreement shall take into account the physician assistant's demonstrated skills, training and experience, proximity of the supervising physician to the physician assistant, and the nature and scope of the medical practice. The supervising physician shall maintain a copy of the supervisory agreement and provide a copy of the agreement to the board upon request. The supervisory agreement shall, at a minimum, address the following provisions.

21.4(1) *Review of requirements.* The supervisory agreement shall include a provision which ensures that the supervising physician and the physician assistant review all of the requirements of physician assistant licensure, practice, supervision, and delegation of medical services as set forth in Iowa Code section 148.13 and chapter 148C, this chapter, and 645—Chapters 326 to 329.

21.4(2) *Assessment of education, training, skills, and experience.* The supervisory agreement shall include a provision which ensures that each supervising physician assesses the education, training, skills, and relevant experience of the physician assistant prior to providing supervision. Each supervising physician and physician assistant shall ensure that the other party has the appropriate education, training, skills, and relevant experience necessary to successfully collaborate on patient care delivered by the team. Thereafter, each supervising physician shall regularly evaluate the clinical judgment, skills, performance and patient care of the physician assistant and shall provide appropriate feedback to the physician assistant.

21.4(3) *Delegated services.* The supervisory agreement shall include a provision which addresses the services the supervising physician delegates to the physician assistant. The medical services and medical tasks delegated to and provided by the physician assistant shall be in compliance with 645—subrule 327.1(1). All delegated medical services shall be within the scope of practice of the supervising physician and the physician assistant. The supervising physician and the physician assistant shall have the education, training, skills, and relevant experience necessary to perform the delegated services prior to delegation.

21.4(4) *Communication.* The supervisory agreement shall include a provision which sets forth expectations for communication. Each supervising physician and physician assistant shall communicate about and consult on medical problems, complications, emergencies, and patient referrals as indicated by the clinical condition of the patient. The supervising physician shall be available for timely consultation with the physician assistant, either in person or by telephonic or other electronic means.

21.4(5) *Chart review.* The supervisory agreement shall include a provision which sets forth the plan for completing chart reviews. Each supervising physician shall conduct and document an ongoing review of a representative sample of the physician assistant's patient charts encompassing the scope of the physician assistant's practice provided under the physician's supervision and shall discuss the findings of the reviews with the physician assistant.

21.4(6) *Face-to-face meetings.* The supervisory agreement shall include a provision which ensures at least two face-to-face meetings with each supervising physician and physician assistant annually. If the physician assistant is practicing at a remote medical site pursuant to rule 645—327.4(148C), the biweekly visits may be used to satisfy this requirement. The meetings are for the purpose of discussing topics deemed appropriate by the physician or the physician assistant, including supervision; expectations for both parties; assessment of education, training, skills, and relevant experience; review of delegated services; review of the medical services provided by the physician assistant; and the types of cases and situations when the supervising physician expects to be consulted. The supervising physician shall ensure that the face-to-face meetings are documented.

21.4(7) *Remote medical site.* The supervisory agreement shall include a provision which ensures that the supervising physician visits a remote medical site to provide additional medical direction, medical services and consultation at least every two weeks or less frequently as specified in unusual or emergency circumstances. When visits are less frequent than every two weeks in unusual or emergency circumstances, the physician shall notify the board in writing of these circumstances within 30 days. "Remote medical site" means a medical clinic for ambulatory patients which is away from the main practice location of a supervising physician and in which a supervising physician is present less than 50 percent of the time when the remote medical site is open. "Remote medical site" will not apply to nursing homes, patient homes, hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided (e.g., diet center, free clinic, site for athletic physicals, jail facility). The board shall only grant a waiver or variance of this provision if substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in this rule.

21.4(8) *Alternate supervision.* The supervisory agreement shall include a provision which sets forth the expectations and plan for alternate supervision. If the supervising physician will not be available for any reason, an alternate supervising physician must be available to ensure continuity of supervision. The supervising physician will ensure the alternate supervising physician is available for a timely consultation and will ensure that the physician assistant is notified of the means by which to reach the alternate supervising physician. The physician assistant may not practice if supervision is unavailable, except as otherwise provided in Iowa Code chapter 148C or 645—Chapters 326 to 329.

ITEM 5. Adopt the following **new** subrule 21.5(4):

21.5(4) The physician fails to adequately direct and supervise a physician assistant or fails to comply with the minimum standards of supervision in accordance with this chapter, Iowa Code section 148.13 and chapter 148C, and 645—Chapters 326 to 329.

ARC 3074C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 42, "Permit to Operate Ionizing Radiation Producing Machines or Administer Radioactive Materials," Iowa Administrative Code.

Chapter 42 is being amended to provide for an endorsement to the general nuclear medicine technologist permit that would allow nuclear medicine technologists to operate computed tomography units for examinations outside of nuclear medicine studies. Currently, nuclear medicine technologists are allowed to administer radioactive materials and use computed tomography for attenuation correction in relation to the nuclear medicine studies of PET/CT or SPECT/CT but are not allowed to operate radiation machines outside of nuclear medicine studies unless the nuclear medicine technologists also hold a radiography permit. In response to industry desire to allow for flexibility in staffing, nuclear medicine training programs and certification boards have evolved to cover additional aspects of computed tomography into their curriculum and advanced testing options. With this additional training and certification, nuclear medicine technologists would possess the minimum training requirements necessary to perform computed tomography outside of a nuclear medicine study. These proposed amendments define computed tomography and outline the minimum requirements for an endorsement to the general nuclear medicine permit to allow endorsement holders to perform computed tomography

outside the scope of nuclear medicine. There is no change in scope of practice for any other permit modalities. These proposed amendments were drafted with input from the Iowa Society of Radiologic Technologists and a facility with both a nuclear medicine department and training program.

Any interested person may make written comments or suggestions on the proposed amendments on or before June 13, 2017. Such written comments should be directed to Angela Leek, Bureau of Radiological Health, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to angela.leek@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code chapter 136C.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions of "Computed tomography," "Nuclear medicine diagnostic computed tomography endorsement," "PET/CT," and "SPECT/CT" in rule **641—42.2(136C)**:

"Computed tomography" or *"CT"* means a technique for generating a series of X-ray images taken from different angles and processed with computer software.

1. "Diagnostic computed tomography" means the use of computed tomography to create cross-sectional images of the human body to be used for diagnosis.

2. "Attenuation correction" means the use of X-rays from a CT scan to construct an attenuation map of density differences throughout the body that can then be used to correct for the absorption of the photons emitted from Fludeoxyglucose (^{18}F) decay during a PET/CT scan.

"Nuclear medicine diagnostic computed tomography endorsement" means a qualification that allows a nuclear medicine technologist to perform diagnostic computed tomography of the human body as ordered by an individual authorized by Iowa law to order radiography.

"PET/CT" means an imaging modality that uses positron emission tomography and computed tomography in one device to combine the structural anatomic information with functional data collected during the examination.

"SPECT/CT" means an imaging modality that uses single-photon emission computed tomography and computed tomography in one device to combine the structural anatomic information with functional data collected during the examination.

ITEM 2. Amend rule **641—42.2(136C)**, definitions of "Nuclear medicine technologist," "Radiologic technologist," and "X-ray equipment operator," as follows:

"Nuclear medicine technologist" means an individual who performs nuclear medicine procedures while under the supervision of an authorized user. The classifications are as follows:

1. "General nuclear medicine technologist" performs any nuclear medicine procedures and may perform computed tomography for attenuation correction during PET/CT or SPECT/CT only.

2. "Limited nuclear medicine technologist" performs nuclear medicine procedures only as approved by the department at the time the initial permit was issued.

"Radiologic technologist" means an individual, excluding X-ray equipment operators, who performs radiography of the human body as ordered by an individual authorized by Iowa law to order radiography. The classifications are as follows:

1. "General radiologic technologist" performs radiography and computed tomography of any part of the human body.

2. "Limited radiologic technologist" performs radiography for the chest, spine, extremities, shoulder or pediatrics, excluding ~~CT~~ computed tomography and fluoroscopy.

3. "Limited in-hospital radiologic technologist" performs radiography of any part of the human body as approved by the department at the time the initial permit was issued.

"X-ray equipment operator" means an individual performing radiography of the human body using dedicated equipment as ordered by an individual authorized by Iowa law to order radiography. These individuals do not qualify for a permit in any other classification. The classifications are as follows:

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1. "Podiatric X-ray equipment operator" performs radiography of only the foot and ankle using dedicated podiatric equipment. Studies using ~~CT~~ computed tomography, fluoroscopy, or nondedicated equipment are prohibited.

2. "Bone densitometry equipment operator" performs bone densitometry using only dual energy X-ray absorptiometry equipment. Studies using ~~CT~~ computed tomography, fluoroscopy, or nondedicated equipment are prohibited.

ITEM 3. Adopt the following **new** subrule 42.6(4):

42.6(4) An individual applying for a nuclear medicine diagnostic computed tomography endorsement shall:

a. Maintain an active permit to practice as a general nuclear medicine technologist. Endorsements may not be held without an active permit.

b. Submit proof of a passing score on the ARRT or NMTCB computed tomography examination.

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PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147A.2 and 147A.27, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 134, "Trauma Care Facility Categorization and Verification," Iowa Administrative Code.

The rules in Chapter 134 define the categorization levels for Iowa trauma care facilities and the criteria standards used to verify that hospitals meet the identified categorization levels. Minor changes to Chapter 134 have been made in the past five years, but significant updates have not been made to the trauma facility verification criteria standards since the early 2000s. The previously adopted Iowa criteria are based on criteria established by the American College of Surgeons Committee on Trauma (ACS-COT). The ACS-COT criteria were modified by Iowa physicians to tailor the criteria for application in Iowa. The Iowa modified criteria created inconsistencies from national trauma standards, resulting in inconsistencies within Iowa's verified trauma facilities based on whether the facility completed an ACS-COT review or an Iowa review.

The ACS-COT has the national subject matter experts in the field of trauma. The ACS-COT conducted an Iowa trauma system consultation in February 2015. The consultation resulted in multiple recommendations. Two recommendations were to adopt and utilize ACS-COT criteria as outlined in the Resources for Optimal Care of the Injured Patient 2014 (6th edition) and to seek ACS-COT verification of trauma care facilities instead of conducting verification based on Iowa modified criteria. Since February 2015, the Trauma System Advisory Committee (TSAC) and its verification subcommittee have worked to review and implement recommendations from the ACS-COT. The verification subcommittee consists of representatives from every level of trauma care facility. Multiple meetings were held in 2015 and early 2016 to identify the positive impacts and unintended consequences associated with adoption of the ACS-COT criteria for all trauma care facility levels, verification of all Iowa Level I and Level II hospitals by the ACS-COT, and modifications to the verification review processes. Iowa's trauma care facilities can expect the following impacts:

1. Level I trauma care facilities: No impact from the rule changes. All Iowa Level I trauma care facilities currently complete ACS-COT verification.

2. Level II trauma care facilities: There are four trauma care facilities verified as Level II in Iowa. Two Iowa facilities complete ACS-COT verification, and the other two Iowa facilities complete Iowa

verification using Iowa modified criteria. The ACS-COT verified Level II trauma care facilities are held to a higher standard related to resources and trauma care capabilities than the Iowa verified trauma care facilities due to the inconsistencies in ACS-COT criteria and Iowa verification criteria. Having trauma care facilities within the state with the same categorization level but not the same verification standard creates inconsistencies within the system.

Level I and II trauma care facilities provide definitive care for the most significantly injured trauma patients. These facilities must have the physicians, staff, and resources needed to provide definitive care for any type of trauma patient, except patients with significant burns. Patients with significant burns are treated at accredited burn centers. There is only one accredited burn center in Iowa.

The changes to the rules in Chapter 134 will have no impact on the ACS-COT verified Level II facilities because these facilities currently complete ACS-COT verification. The ACS-COT criteria include robust requirements related to hospital and surgical capabilities, performance improvement, and outreach activities inclusive of emergency medical service (EMS) and rural trauma care facilities.

The Iowa verified Level II trauma care facilities identified the following concerns with ACS-COT verification and utilization of ACS-COT criteria:

- The cost associated with ACS-COT verification. The increased costs originate from the actual cost of the ACS-COT verification process and visit and from the costs for additional physicians and staffing.
- Transition to a Level III facility (if unable to achieve ACS-COT Level II verification) may lead to a lower level of care available at the trauma care facility and diminish the hospital's ability to recruit physicians. (Transition to the ACS-COT verification using ACS-COT criteria substantially raises the verification criteria requirements for Iowa verified Level II trauma care facilities.)

3. Level III trauma care facilities: Iowa has 17 verified Level III trauma care facilities (all verified by Iowa). For the majority of the facilities, transition to the ACS-COT Level III criteria will have little or no impact on the facility. Three of the facilities may have difficulty achieving the orthopedic surgical services requirements identified in the criteria (previously not required by Iowa modified criteria). Transition to the ACS-COT criteria minimally to moderately raises the verification criteria requirements for the Iowa Level III trauma care facilities depending on the facilities' capabilities.

4. Level IV trauma care facilities: Iowa has 95 verified Level IV trauma care facilities (all verified by Iowa). The transition to the ACS-COT criteria has a significant benefit to the Level IV facilities. The ACS-COT criteria reduce the financial burden on the hospitals by allowing the use of advanced registered nurse practitioners (ARNPs) and physician assistants (PAs) in the hospital emergency departments without maintaining a physician on call. The education requirements are reduced for physicians at Level IV facilities. These changes are consistent with the needs of Iowa's rural facilities. Transition to the ACS-COT criteria lowers verification criteria requirements for the Iowa Level IV trauma care facilities while ensuring trained staff and quality access to life-sustaining trauma care in Iowa's rural communities. Level IV trauma care facilities primarily provide initial life-sustaining stabilization to a trauma patient before patient transfer occurs to a Level I, II, or III trauma care facility for definitive treatment. Transport decisions address the needs of the patient and consider the closest available resources to provide optimal care for the patient.

The TSAC verification subcommittee made the following recommendations to the TSAC in January 2016:

- ACS-COT verification of all Level I and II facilities in Iowa.
- Utilization of ACS-COT criteria for all trauma categorization levels (I-IV).
- Weighted criteria and a more clearly outlined disciplinary process.

The TSAC recommended that the Department provide notice of administrative rule changes to Chapter 134 reflecting the recommendations from the verification subcommittee. Iowa's trauma facility coordinators were engaged during the drafting process to provide comments and suggestions, and their comments and suggestions influenced the development of this Notice of Intended Action.

During the 2016 legislative session, language was introduced to amend Iowa Code section 147A.23(2)"c" to indefinitely suspend modifications to Level II trauma verification criteria from the criteria that were in effect on July 1, 2015. The legislative language passed through the Health and

Human Services appropriations bill. The Governor subsequently vetoed this language at the end of the 2016 session.

Throughout 2016, TSAC requested that the Department pursue implementation of the recommendations made in January 2016. The Department continued to review the recommendations and began engaging the Iowa Hospital Association (IHA) and hospitals that specifically notified the Department about concerns over the proposed changes.

Several conference calls and face-to-face meetings occurred with IHA and hospital representatives to identify acceptable compromises in association with the proposed amendments to Chapter 134. The Department coordinated with TSAC during the November 2016, January 2017, and April 2017 council meetings to modify these proposed amendments and to establish consensus amongst the trauma system constituency.

One Iowa verified Level II facility requested that two verification cycles (six years) be allowed before transitioning to ACS-COT verification. Some members of the TSAC recommended one year for transition (which is consistent with the time provided to ACS-COT facilities to meet criteria when the criteria are updated on the national level). TSAC ultimately recommended a three-year period for the Iowa Level II facilities to transition to the ACS-COT criteria.

The Iowa Level II facility continued to advocate for six years to transition. The Department met with the requesting hospital face-to-face on two occasions and participated in several conference calls to find a compromise. The Department is proposing a four-year period, from the time of the anticipated effective date of these amendments, for the Iowa verified Level II facilities to transition to ACS-COT verification or to transition to an Iowa verified Level III or Level IV trauma care facility. The Department believes it to be a reasonable compromise to allow four years for facilities to recruit necessary medical staff needed to achieve ACS-COT Level II verification.

The Department is proposing amendments to Chapter 134 for the following reasons:

- ACS-COT criteria are evidence-based national standards developed by nationally recognized subject matter experts in the field of trauma. The "Resources for Optimal Care of the Injured Patient 2014" (6th edition) can be used as a consistent reference across Iowa's trauma system.
- Utilization of only ACS-COT teams to verify Level II trauma care facilities in Iowa will eliminate inconsistencies between ACS-COT verification teams and Iowa verification teams.
- Hospitals verified at each categorization level will have consistent criteria to meet as well as consistent resources and capabilities for that level.

The following is a summary of the proposed amendments to Chapter 134:

1. Throughout the chapter, references to hospital and emergency facilities are replaced with references to trauma facilities, where appropriate, and the terms resource, regional, area and community facilities are replaced with the appropriate level categorization designation I, II, III, or IV. Updates are made to the name of the bureau and its Web site address.

2. In rule 641—134.1(147A), definitions are added for "criteria deficiency," "final report," "governing body," "persistently occurring deficiencies," "trauma survey team," "type I criteria," and "type II criteria." Edits are made to the definitions of "trauma care facility," "on-site verification survey," and "verification."

3. In subrule 134.2(3), the "Resources for Optimal Care of the Injured Patient 2014" (6th edition) as published by the American College of Surgeons Committee on Trauma is adopted by reference.

4. New paragraph 134.2(3)"c" provides that trauma care facilities shall transition to the criteria outlined in the national reference "Resources for Optimal Care of the Injured Patient 2014" (6th edition) as published by the American College of Surgeons Committee on Trauma and provides the specific time lines for each level of trauma care facility to complete the transition.

5. The amendments to subrule 134.2(6) clarify that Level I and Level II trauma care facilities shall be verified by the American College of Surgeons Committee on Trauma (ACS-COT) and that the Level III and Level IV trauma care facilities will be verified by the Department. An ACS-COT verification shall be accepted by the Department as state verification as a trauma care facility. If Level I and II facilities fail an ACS-COT verification, the trauma care facility will submit to the Department an application for

a Level III or IV verification until the ACS-COT recommendations are met and the trauma care facility can be visited and verified by the ACS-COT.

6. The amendments to subrule 134.2(7) provide that verification criteria are weighted by criteria types (Type I and Type II) as indicated in the "Resources for Optimal Care of the Injured Patient 2014" (6th edition) published by the American College of Surgeons Committee on Trauma and adopted in paragraph 134.2(3)"a." Clarification related to these types of criteria deficiencies and resulting disciplinary action is provided. The amendments also provide that the Department may conduct electronic review or on-site verification for deficiency resolution, that the Department may conduct chart reviews, that all proceedings, records and reports from site visits are peer review records and are not subject to discovery by subpoena or admissible evidence, and that all information and documents are confidential.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 13, 2017. Direct written comments to Rebecca Curtiss, Bureau Chief of Emergency and Trauma Services, Iowa Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail: rebecca.curtiss@idph.iowa.gov.

There will be a public hearing on June 13, 2017, from 1 to 2 p.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. This hearing will be conducted in Room 517, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa. Persons may join the meeting by dialing the toll-free telephone number 1-866-685-1580 and entering code 5152425604 when prompted. Telephonic participants will be asked to provide their first and last names. The call will be recorded as required for a public hearing.

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

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

These amendments are intended to implement Iowa Code section 147A.2.

The following amendments are proposed.

ITEM 1. Amend rule 641—134.1(147A) as follows:

641—134.1(147A) Definitions. For the purpose of these rules, the following definitions shall apply:

"Categorization" means a preliminary determination by the department that a hospital or emergency care facility is capable of providing trauma care at Level I, II, III or IV care capabilities.

"Certificate of verification" means a document awarded by the department that identifies a hospital or emergency care facility's level and term of verification as a trauma care facility.

"Criteria deficiency" or *"deficiency"* means a failure to meet criteria requirements as outlined in paragraph 134.2(3)"*a*."

"Department" means the Iowa department of public health.

"Director" means the director of the Iowa department of public health.

"Emergency care facility" means a physician's office, clinic, or other health care center which provides emergency medical care in conjunction with other primary care services.

"Emergency medical care provider" means emergency medical care provider as defined in 641—131.1(147A).

"Final report" means the verification report issued by the department following a verification review conducted by trauma survey team members and department staff.

"Governing body" means a group of individuals responsible for the governance of a hospital, including but not limited to, a board of directors or board of trustees.

"Hospital" means any hospital licensed under Iowa Code chapter 135B.

"On-site verification survey" means an on-site survey conducted by the department or survey team members to assess a hospital or emergency care facility's ability to meet the level of categorization requested.

"Persistently occurring deficiencies" means deficiencies identified in two sequential verification reviews.

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"Trauma" means a single or multisystem life-threatening or limb-threatening injury, or an injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.

"Trauma care facility" means a hospital or emergency care facility which provides trauma care and has been verified by the department as having ~~Resource (Level I)~~ Level I, ~~Regional (Level II)~~ Level II, ~~Area (Level III)~~ Level III or ~~Community (Level IV)~~ Level IV care capabilities and has been issued a certificate of verification pursuant to Iowa Code section ~~147A.23, subsection 2, paragraph *"c."*~~ 147A.23(2)"*c*."

"Trauma care system" means an organized approach to providing personnel, facilities, and equipment for effective and coordinated trauma care.

"Trauma survey team" means a group of health care providers contracted by the department to assist in verifying trauma care facilities' compliance with trauma criteria adopted in 134.2(3).

"Type I criteria" or *"Type I criteria deficiency"* indicates criteria requirements that may significantly impact a trauma care facility's ability to provide optimal care for trauma patients.

"Type II criteria" or *"Type II criteria deficiency"* indicates criteria that are required but have a less critical impact on the trauma care facility's ability to provide optimal care for trauma patients than Type I criteria.

"Verification" means a process by which the department certifies a ~~hospital or emergency~~ trauma care facility's capacity to provide trauma care in accordance with criteria established for ~~Resource (Level I)~~ Level I, ~~Regional (Level II)~~ Level II, ~~Area (Level III)~~ Level III or ~~Community (Level IV)~~ Level IV trauma care facilities and these rules.

ITEM 2. Amend rule 641—134.2(147A), introductory paragraph, as follows:

641—134.2(147A) Trauma care facility categorization and verification. Categorization and verification of ~~hospitals and emergency~~ trauma care facilities shall be made by the department based upon the ~~hospitals' or emergency~~ trauma care facilities' resources available for providing trauma care services.

ITEM 3. Amend paragraph **134.2(1)"c"** as follows:

c. Categorization applications may be obtained from the department upon written request to: Iowa Department of Public Health, Bureau of Emergency ~~Medical~~ and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 4. Amend subrules 134.2(2) to 134.2(7) as follows:

134.2(2) Categorization levels for trauma care facilities shall be identified as:

a. ~~Resource (Level I)~~ Level I.

b. ~~Regional (Level II)~~ Level II.

c. ~~Area (Level III)~~ Level III.

d. ~~Community (Level IV)~~ Level IV.

134.2(3) Adoption by reference.

a. Criteria specific to Level I trauma care facilities identified in the "Resources for Optimal Care of the Injured Patient 2014" ~~(2006)~~ (6th edition) published by the American College of Surgeons Committee on Trauma (ACS-COT) is incorporated and adopted by reference for ~~Resource (Level I)~~ Level I hospital and emergency care facility categorization criteria. ~~"Iowa Trauma System Regional (Level II) Hospital and Emergency Care Facility Categorization Criteria" (2013)~~ Criteria specific to Level II trauma care facilities identified in the "Resources for Optimal Care of the Injured Patient 2014" (6th edition) published by the American College of Surgeons Committee on Trauma is incorporated and adopted by reference for ~~Regional (Level II)~~ Level II hospital and emergency care facility categorization criteria. ~~"Iowa Trauma System Area (Level III) Hospital and Emergency Care Facility Categorization Criteria" (2013)~~ Criteria specific to Level III trauma care facilities identified in the "Resources for Optimal Care of the Injured Patient 2014" (6th edition) published by the American College of Surgeons Committee on Trauma is incorporated and adopted by reference for ~~Area (Level III)~~ Level III hospital and emergency care facility categorization criteria. ~~"Iowa Trauma System Community (Level IV)~~

~~Hospital and Emergency Care Facility Categorization Criteria" (2013)~~ Criteria specific to Level IV trauma care facilities identified in the "Resources for Optimal Care of the Injured Patient 2014" (6th edition) published by the American College of Surgeons Committee on Trauma is incorporated and adopted by reference for ~~Community (Level IV)~~ Level IV hospital and emergency care categorization criteria. For any differences which may occur between the adopted references and these administrative rules, the administrative rules shall prevail.

b. ~~"Iowa Trauma System Regional (Level II) Hospital and Emergency Care Facility Categorization Criteria" (2013), "Iowa Trauma System Area (Level III) Hospital and Emergency Care Facility Categorization Criteria" (2013) and "Iowa Trauma System Community (Level IV) Hospital and Emergency Care Facility Categorization Criteria" (2013) are~~ "Resources for Optimal Care of the Injured Patient 2014" (6th edition) published by the American College of Surgeons Committee on Trauma is available through the Iowa Department of Public Health, Bureau of ~~EMS~~ Emergency and Trauma Services (BETS), Lucas State Office Building, Des Moines, Iowa 50319-0075, or the ~~bureau of EMS~~ BETS Web site ~~(www.idph.state.ia.us/ems)~~ (http://idph.iowa.gov/BETS/Trauma).

c. Trauma care facilities shall transition to the criteria outlined in paragraph 134.2(3)*"a."*

(1) Level IV trauma care facilities shall transition to the criteria outlined in paragraph 134.2(3)*"a"* on or before October 1, 2017.

(2) Level III trauma care facilities shall maintain, at a minimum, the criteria requirements effective in 2013 until a transition to the criteria in paragraph 134.2(3)*"a"* at the next scheduled verification visit. Transition to paragraph 134.2(3)*"a"* criteria shall be completed on or before December 31, 2020.

(3) Level II trauma care facilities shall maintain, at a minimum, the criteria requirements effective in 2013 until American College of Surgeons Committee on Trauma verification on or before October 31, 2021.

d. The 2013 criteria for all levels of trauma care facilities are available through the Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the BETS Web site (http://idph.iowa.gov/BETS/Trauma).

134.2(4) Categorization shall not be construed to imply any guarantee on the part of the department as to the level of trauma care services available at a ~~hospital or emergency~~ trauma care facility.

134.2(5) A ~~hospital, emergency care facility, or~~ trauma care facility may apply to the department for a change in level of categorization through submission of a self-assessment categorization application. Hospitals, emergency care facilities, or trauma care facilities applying for initial verification or a change in level of categorization shall be verified based on the criteria outlined in paragraph 134.2(3)*"a."*

134.2(6) Verification. Verification of a trauma care facility shall be determined by the department upon successful completion of the categorization application and completion of a verification survey. All categorized hospitals and emergency care facilities shall be verified.

a. Level I and Level II trauma care facilities shall be verified by the American College of Surgeons Committee on Trauma on or before October 31, 2021.

b. Trauma care facilities verified by the American College of Surgeons Committee on Trauma shall be accepted by the department as equivalent for categorization and verification as a trauma care facility in Iowa provided that all policy, reporting, and administrative rules have been met. The department may issue a certification of verification provided that the trauma care facility has been verified by the American College of Surgeons Committee on Trauma. The facility shall provide the department documentation including, but not limited to, a current copy of the ACS-COT verification.

c. A Level I or Level II trauma care facility which fails to attain American College of Surgeons Committee on Trauma verification shall submit an application to the department to be verified as a Level III or Level IV trauma care facility to ensure compliance with Iowa Code section 147A.23(2)*"a."*

d. Level III and Level IV trauma care facilities shall be verified by the department in consultation with the trauma survey team.

134.2(7) The department shall conduct a verification survey for categorized hospitals or emergency care facilities.

a. A verification survey shall assess the ability of the hospital or emergency care facility to meet criteria for the level of categorization pursuant to 134.2(3).

b. Verification criteria are weighted by criteria types, Type I and Type II, as indicated in the "Resources for Optimal Care of the Injured Patient 2014" (6th edition) published by the American College of Surgeons Committee on Trauma and adopted in 134.2(3)*"a."*

c. Type II criteria deficiencies identified during the verification process may result in disciplinary action. Criteria deficiencies shall be resolved in accordance with the trauma care facility's final report. Failure to rectify deficiencies in accordance with the trauma care facility's final report shall result in disciplinary action.

d. Type I criteria deficiencies or persistently occurring Type II criteria deficiencies identified during the verification process shall result in disciplinary action. The department shall notify the trauma care facility's governing body of Type I or persistently occurring Type II criteria deficiencies. The trauma care facility shall implement a plan of correction within 45 days of issuance of the trauma facility's final report. Criteria deficiencies shall be resolved in accordance with the trauma care facility's final report and the implemented plan of correction. Failure to rectify deficiencies shall result in disciplinary action.

e. The department may conduct electronic review or on-site verification that criteria deficiencies have been resolved as outlined in final reports or disciplinary actions.

~~*b.*~~ *f.* The department shall approve trauma care facility verification when the department is satisfied that the proposed facility will provide services and be operated in compliance with Iowa Code section 147A.23 and these administrative rules.

~~*c.*~~ *g.* The department shall notify the applicant, in writing, as to the approval or denial of verification as a trauma care facility within 90 days after the completion of a verification survey.

~~*d.*~~ *h.* Verification shall not be construed to imply any guarantee on the part of the department as to the level of trauma care services available at a hospital or emergency care facility.

~~*e.*~~ *i.* Trauma care facility verification is valid for a period of three years from the effective date unless otherwise specified on the certificate of verification or unless sooner suspended or revoked.

~~*f.*~~ *j.* Trauma care facilities shall be fully operational at their verified level upon the effective date specified on the certificate of verification. Trauma care facilities shall meet all requirements of Iowa Code section 147A.23 and these administrative rules.

~~*g.*~~ *k.* As part of the verification and renewal process, the department or its designated trauma survey team may conduct periodic on-site reviews of the services and facilities of trauma care facilities including chart review at those facilities.

~~*h.*~~ *l.* Trauma care facilities that are unable to maintain their categorization or verification, or both, shall notify the department within 48 hours.

~~*i.*~~ *m.* The director, pursuant to ~~rule~~ 641—Chapter 178, may grant a variance from the requirements of rules adopted under this chapter for any ~~hospital or emergency~~ trauma care facility ~~provided that the variance is related to undue hardships in complying with this chapter or the rules adopted pursuant to this chapter~~.

~~*j.* Hospitals currently verified by the American College of Surgeons shall be accepted as equivalent for categorization and verification as a trauma care facility in Iowa provided that all policy, reporting, and administrative rules have been met. Documentation shall be provided to the department including, but not limited to, a current copy of the ACS verification certification, the hospital's completed ACS verification application or a completed Self-Assessment Categorization Application (SACA).~~

n. Proceedings, records, and reports developed pursuant to this chapter constitute peer review records under Iowa Code section 147.135, and are not subject to discovery by subpoena or admissible as evidence. All information and documents received from a hospital, emergency care facility, or trauma care facility under Iowa Code chapter 147A shall be confidential pursuant to Iowa Code section 272C.6(4).

ITEM 5. Amend subrules 134.3(2) to 134.3(4) as follows:

134.3(2) All complaints regarding the operation of a trauma care facility, or those purporting to be or operating as the same, shall be reported to the department. The address is: Iowa Department of Public

Health, Bureau of Emergency ~~Medical~~ and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

134.3(3) An EMS provider who has knowledge of a hospital, emergency care facility or trauma care facility that has violated Iowa Code section 147A.23, or these administrative rules, shall immediately report such information to the department. The address is: Iowa Department of Public Health, Bureau of Emergency ~~Medical~~ and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

134.3(4) Complaints and the investigative process shall be treated as confidential to the extent they are protected by Iowa Code ~~section~~ sections 22.7 and 147A.24 and Iowa Code chapter 272C.

ITEM 6. Amend subrule 134.3(7) as follows:

134.3(7) Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. The address is: Iowa Department of Public Health, Bureau of Emergency ~~Medical~~ and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 20-day time period, the notice to take action shall be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.

ITEM 7. Amend subrule 134.3(15) as follows:

134.3(15) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Iowa Department of Public Health, Bureau of Emergency ~~Medical~~ and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

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PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147A.2 and 147A.27, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 137, "Trauma Education and Training," Iowa Administrative Code.

Chapter 137 establishes minimum education requirements for medical personnel caring for trauma patients in Iowa's trauma care facilities. These rules have been updated to reference and support rules in Chapter 134, "Trauma Care Facility Categorization and Verification," for which amendments are proposed in **ARC 3075C** herein. The Department coordinated with the Trauma System Advisory Council (TSAC) to amend these rules. The draft amendments to these rules were also shared with all Iowa trauma coordinators during the drafting process for the purpose of receiving comments and suggestions. The suggestions received were incorporated into the final draft before final approval by TSAC.

The proposed changes to the rules include the following:

1. In rule 641—137.1(147A), all definitions that are no longer referenced in the rules are stricken and edits are made to the definitions of "advanced registered nurse practitioner," "trauma care facility," "trauma patient," "trauma system advisory council," "trauma team" and "verification."

2. In paragraph 137.2(1)"c," regarding general requirements for initial trauma education, the name and Web site address of the bureau are updated.

3. In paragraph 137.2(2)"a," which sets forth specific requirements for initial trauma education, clarifications regarding the education required for physicians, physician assistants and advanced registered nurse practitioners are made.

4. In subrule 137.3(1), specific training requirements for each provider category are added to the continuing education requirements.

5. Subrule 137.3(2), which contains the general requirements for continuing trauma education, is rescinded because the requirements are no longer relevant due to the use of national guidelines.

6. Subrule 137.3(3), which contains the specific requirements for each provider category, is rescinded because the requirements are no longer relevant due to the use of national guidelines.

7. Subrule 137.3(4), regarding continuing education for EMS providers, is rescinded because EMS provider education is clearly defined in 641—Chapter 131.

8. The new rule 641—137.4(147A), regarding offenses and penalties, clarifies that offenses and penalties will be addressed pursuant to 641—Chapter 134.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 13, 2017. Such written comments should be directed to Rebecca Curtiss, Bureau Chief of Emergency and Trauma Services, Iowa Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to rebecca.curtiss@idph.iowa.gov.

There will be a public hearing on June 13, 2017, from 2 to 2:30 p.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. This hearing will be conducted in Room 517, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa. Persons may join the meeting by dialing the toll-free telephone number 1-866-685-1580 and entering code 5152425604 when prompted. Telephonic participants will be asked to provide their first and last names. The call will be recorded as required for a public hearing.

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

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

These amendments are intended to implement Iowa Code section 147A.2.

The following amendments are proposed.

ITEM 1. Amend rule 641—137.1(147A) as follows:

641—137.1(147A) Definitions. For the purpose of these rules, the following definitions shall apply:

~~*"ACLS course"* means advanced cardiac life support course.~~

~~*"Advanced emergency medical technician"* or *"AEMT"* means advanced emergency medical technician as defined in 641—131.1(147A).~~

"Advanced registered nurse practitioner" or *"ARNP"* means a nurse pursuant to 655—7.1(152) with current licensure as a registered nurse in Iowa who is registered in Iowa to practice in an advanced role. ~~The ARNP is prepared for an advanced role by virtue of additional knowledge and skills gained through a formal advanced practice education program of nursing in a specialty area approved by the board. In the advanced role, the nurse practices nursing assessment, intervention, and management within the boundaries of the nurse-client relationship. Advanced nursing practice occurs in a variety of settings within an interdisciplinary health care team, which provide for consultation, collaborative management, or referral. The ARNP may perform selected medically delegated functions when a collaborative practice agreement exists.~~

~~*"Advanced trauma life support course®"* or *"ATLS®"* means a course for physicians with an emphasis on the first hour of initial assessment and primary management of the injured patient, starting at the point in time of injury continuing through initial assessment, life-saving intervention, reevaluation, stabilization, and transfer when appropriate.~~

"Department" means the Iowa department of public health.

~~*"Director"* means the director of the Iowa department of public health.~~

~~*"Emergency care facility"* means a physician's office, clinic, or other health care center which provides emergency medical care in conjunction with other primary care services.~~

~~*"Emergency medical care provider"* means emergency medical care provider as defined in 641—131.1(147A).~~

~~*"Emergency medical services"* or *"EMS"* means emergency medical services as defined in 641—132.1(147A).~~

~~*"Emergency medical technician"* or *"EMT"* means emergency medical technician as defined in 641—131.1(147A).~~

~~*"Emergency medical technician-ambulance"* or *"EMT-A"* means emergency medical technician-ambulance as defined in 641—131.1(147A).~~

~~*"Emergency medical technician-basic"* or *"EMT-B"* means emergency medical technician-basic as defined in 641—131.1(147A).~~

~~*"Emergency medical technician-defibrillation"* or *"EMT-D"* means emergency medical technician-defibrillation as defined in 641—131.1(147A).~~

~~*"Emergency medical technician-intermediate"* or *"EMT-I"* means emergency medical technician-intermediate as defined in 641—131.1(147A).~~

~~*"Emergency medical technician-paramedic"* or *"EMT-P"* means emergency medical technician-paramedic as defined in 641—131.1(147A).~~

~~*"First responder"* or *"FR"* means first responder as defined in 641—131.1(147A).~~

~~*"First responder-defibrillation"* or *"FR-D"* means first responder-defibrillation as defined in 641—131.1(147A).~~

"Formal education" means education in standardized educational settings with a curriculum.

~~*"Hospital"* means a facility licensed under Iowa Code chapter 135B, or comparable emergency care facility located and licensed in another state.~~

"Licensed practical nurse" or *"LPN"* means an individual licensed pursuant to Iowa Code chapter 152.

~~*"NRP course"* means neonatal resuscitation provider course.~~

~~*"PALS course"* means pediatric advanced life support course.~~

~~*"Paramedic"* means paramedic as defined in 641—131.1(147A).~~

~~*"Paramedic specialist"* or *"PS"* means paramedic specialist as defined in 641—131.1(147A).~~

"Physician" means an individual licensed under Iowa Code chapter 148, 150 or 150A.

"Physician assistant" or *"PA"* means an individual licensed pursuant to Iowa Code chapter 148C.

"Practitioner" means a person who practices medicine or one of the associated health care professions.

"Registered nurse" or *"RN"* means an individual licensed pursuant to Iowa Code chapter 152.

~~*"Service program"* or *"service"* means service program as defined in 641—132.1(147A).~~

"Trauma" means a single or multisystem life-threatening or limb-threatening injury, or an injury requiring immediate medical or surgical intervention or treatment to prevent death or disability.

"Trauma care facility" means a hospital or emergency care facility which provides trauma care and has been verified by the department as having ~~Resource (~~Level I~~)~~, ~~Regional (~~Level II~~)~~, ~~Area (~~Level III~~)~~ or ~~Community (~~Level IV~~)~~ care capabilities and has been issued a certificate of verification pursuant to Iowa Code section ~~147A.23, subsection 2, paragraph *"c."*~~ 147A.23(2)"*c*."

~~*"Trauma care system"* means an organized approach to providing personnel, facilities, and equipment for effective and coordinated trauma care.~~

"Trauma nursing course objectives" means the trauma nursing course objectives recommended to the department by the trauma system advisory council and adopted by reference in these rules.

"Trauma patient" means a victim of an external cause of injury that results in major or minor tissue damage or destruction caused by intentional or unintentional exposure to thermal, mechanical, electrical or chemical energy, or by the absence of heat or oxygen ~~(ICD9 Codes E800.0 - E999.9)~~.

"Trauma system advisory council" or *"TSAC"* means the council established by the department pursuant to Iowa Code section 147A.24 ~~to advise the department on issues and strategies to achieve optimal trauma care delivery throughout the state, to assist the department in the implementation of an~~

~~Iowa trauma care plan, to develop criteria for the categorization of all hospitals and emergency care facilities according to their trauma care capabilities, to develop a process for verification of the trauma care capacity of each facility and the issuance of a certificate of verification, to develop standards for medical direction, trauma care, triage and transfer protocols, and trauma registries, to promote public information and education activities for injury prevention, to review rules adopted under this division, and to make recommendations to the director for changes to further promote optimal trauma care~~.

"Trauma team" means a team of multidisciplinary health care providers established and defined by a ~~hospital or emergency~~ trauma care facility that provides trauma care commensurate with the level of trauma care facility verification.

"Verification" means a process by which the department certifies a ~~hospital or emergency~~ trauma care facility's capacity to provide trauma care in accordance with criteria established for ~~Resource (~~Level I~~)~~, ~~Regional (~~Level II~~)~~, ~~Area (~~Level III~~)~~ or ~~Community (~~Level IV~~)~~ trauma care facilities and these rules.

ITEM 2. Amend rule 641—137.2(147A), introductory paragraph, as follows:

641—137.2(147A) Initial trauma education ~~for Iowa's trauma system~~ requirements. ~~Initial trauma~~ Trauma education is required of physicians, physician assistants, advanced registered nurse practitioners, registered nurses, and licensed practical nurses who are identified or defined as trauma team members by a trauma care facility and who participate directly in the initial resuscitation of the trauma patient.

ITEM 3. Amend paragraph **137.2(1)"c"** as follows:

c. Trauma nursing course objectives are available from the Department of Public Health, Bureau of Emergency ~~Medical~~ and Trauma Services (BETS), Lucas State Office Building, Des Moines, Iowa 50319-0075, or the ~~bureau of EMS~~ BETS Web site (~~www.idph.state.ia.us/ems~~ http://idph.iowa.gov/BETS/Trauma).

ITEM 4. Amend paragraph **137.2(2)"a"** as follows:

a. Physicians, PAs and ARNPs~~: current ATLS® certification~~ shall comply with education criteria specific to the level for which the trauma care facility is verified according to the "Resources for Optimal Care of the Injured Patient 2014" (6th edition) published by the American College of Surgeons Committee on Trauma.

ITEM 5. Amend rule 641—137.3(147A), introductory paragraph, as follows:

641—137.3(147A) Continuing trauma education ~~for Iowa's trauma system~~ requirements. Continuing trauma education is required every four years of physicians, physician assistants, advanced registered nurse practitioners, registered nurses, and licensed practical nurses who are identified or defined as trauma team members by a trauma care facility and who participate directly in the initial resuscitation of the trauma patient.

ITEM 6. Amend subrule 137.3(1) as follows:

137.3(1) ~~Topics for all or part of the continuing trauma education hours may be recommended to the department by TSAC based on trauma care system outcomes.~~ Specific requirements for continuing trauma education for each provider category are as follows:

a. Physicians, PAs and ARNPs shall comply with education criteria specific to the level for which the trauma care facility is verified according to the "Resources for Optimal Care of the Injured Patient 2014" (6th edition) published by the American College of Surgeons Committee on Trauma.

b. RN and LPN: 16 hours of continuing trauma education is required, with a minimum of 4 hours as formal education.

c. RN and LPN: Sustainment of training using trauma nursing course objectives (2007) recommended by TSAC. Continuing education hours earned sustaining trauma nurse course objectives may be applied to continuing education requirements identified in paragraph 137.3(1)"*b*."

ITEM 7. Rescind and reserve subrules **137.3(2)** to **137.3(4)**.

ITEM 8. Rescind rule 641—137.4(147A) and adopt the following **new** rule in lieu thereof:

641—137.4(147A) Offenses and penalties. Offenses and penalties will be addressed pursuant to 641—Chapter 134, Trauma Care Facility Categorization and Verification.

ARC 3065C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 543B.9, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 3, "Broker License," Chapter 4, "Salesperson License," and Chapter 5, "Licensees of Other Jurisdictions and Reciprocity," Iowa Administrative Code.

The proposed amendments are a result of the five-year rolling review of administrative rules outlined in Iowa Code section 17A.7(2), along with input and concern from leadership from the professional association of real estate licensees in regard to how real estate salespersons and brokers from other jurisdictions are being licensed by the Real Estate Commission.

The rules in Chapter 3 describe the general requirements for a real estate broker license. The proposed amendments to Chapter 3 will remove old education requirements that have since been updated, update citations to the Iowa Code, and clarify the experience requirements for obtaining a real estate broker license in Iowa. The rules in Chapter 4 describe the general requirements for a salesperson license. The proposed amendments to Chapter 4 will remove old education requirements that have since been updated, provide clarification of the current prelicense education requirements, and update citations to the Iowa Code. The rules in Chapter 5 describe the general requirements for real estate licensees in other jurisdictions who wish to obtain a real estate license in Iowa. The proposed amendments to Chapter 5 will clarify how salespersons and brokers licensed in other jurisdictions can be licensed in Iowa and will update the Commission's Web address.

Consideration will be given to all written suggestions or comments received on or before June 13, 2017. Comments should be directed to Jeffrey Evans, Iowa Real Estate Commission, 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to jeff.evans@iowa.gov.

A public hearing will be held on June 13, 2017, at 12 noon in the Commission Office, 200 East Grand Avenue, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person's name and address for the record and to confine remarks to the subject of the proposed amendments. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Real Estate Commission and advise of specific needs.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These proposed amendments were approved by the Commission on December 3, 2015.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 543B.9.

The following amendments are proposed.

REAL ESTATE COMMISSION[193E](cont'd)

ITEM 1. Amend rule 193E—3.1(543B) as follows:

193E—3.1(543B) General requirements for broker license. An applicant for a broker license must meet all requirements of Iowa Code section 543B.15.

3.1(1) and **3.1(2)** No change.

3.1(3) An applicant for a real estate broker's license who has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or another similar offense, or of any crime involving moral turpitude, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the conviction. "Conviction" is defined in Iowa Code section 543B.15(3) and rule 193E—2.1(543B).

3.1(4) No change.

3.1(5) As required by Iowa Code section ~~543B.15(8)~~ 543B.15(7) and 193E—subrule 16.3(1), an applicant for licensure as a real estate broker shall complete at least 72 classroom hours of commission-approved real estate education within 24 months prior to taking the broker examination. This education shall be in addition to the required salesperson prelicense course. Effective January 1, 2005, and thereafter, all persons applying for a broker license within their first renewal term must complete the 36-hour salesperson postlicense courses, including 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices, before a broker license can be issued.

3.1(6) As required by Iowa Code section ~~543B.15(8)~~ 543B.15(7), an applicant for licensure as a real estate broker must have been ~~a~~ an actively licensed real estate salesperson actively engaged in real estate for a period of at least 24 months preceding the date of application~~,~~ or shall have had experience as a former broker or salesperson or otherwise substantially equivalent experience to that which a licensed real estate salesperson would ordinarily receive during a period of 24 months.

a. An applicant for a broker license may use active experience as a former Iowa salesperson or active salesperson experience in ~~a~~ another state or jurisdiction ~~which has a current reciprocal licensing agreement or memorandum in place with Iowa~~, or a combination of both, to satisfy the experience requirement for a broker license only if the former Iowa salesperson or ~~reciprocal~~ applicant from another state or jurisdiction ~~salesperson~~ was actively licensed for not less than 24 months and if the license on which the experience is based has not been expired for more than three years prior to the date the completed broker application with fee is filed with the commission.

b. For waiver of commission rules or substitution of experience, see Iowa Code section 543B.15 and the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5.

ITEM 2. Amend rule 193E—3.2(543B) as follows:

193E—3.2(543B) License examination. Examinations for licensure as a real estate broker shall be conducted by the commission or its authorized representative.

3.2(1) No change.

3.2(2) Requests for ~~substitution,~~ waiver~~,~~ or variance. An examinee must meet the requirements set out in Iowa Code section 543B.15. Requests for ~~substitution,~~ waiver~~,~~ or variance of commission rules or of the qualifications for licensure as permitted by Iowa Code section 543B.15 shall be submitted in writing and as provided by the commission's rules regarding waivers and variances, which can be found in the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5. The commission will consider each case on an individual basis. ~~It~~ The commission may require additional supporting information. If the applicant's experience or prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

3.2(3) Evidence of completion of prelicense education required. An examinee shall be required to show evidence at the examination site that required prelicense education has been completed. If the commission has granted ~~substitution,~~ waiver~~,~~ or variance of prelicense education, the letter granting

~~substitution,~~ the waiver~~,~~ or variance will serve as evidence of completion. Persons planning to qualify under rule 193E—5.3(543B) must obtain written authorization from the commission to show at the examination site.

3.2(4) and **3.2(5)** No change.

ITEM 3. Amend rule 193E—3.3(543B), introductory paragraph, as follows:

193E—3.3(543B) Application for broker license. An applicant who passes a qualifying broker examination will receive a passing score report and an application form for licensure from the testing service. An applicant who passes a qualifying examination and applies for a license must file with the commission a completed application, license fee, proof of required education, and score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

ITEM 4. Amend subrule 3.5(1) as follows:

3.5(1) *Application forms.* Application forms for renewal of a broker's license may be obtained from the commission office or may be ~~available~~ found on the commission's Web site. Brokers may renew electronically or by submitting a written application. While the commission generally mails renewal application forms or reminders to brokers in the November preceding license expiration, the failure of the commission to mail an application form or reminder or the failure of a broker to receive an application form or reminder shall not excuse the broker from the requirement to timely renew.

ITEM 5. Rescind subrule **3.6(4)**.

ITEM 6. Renumber subrule **3.6(5)** as **3.6(4)**.

ITEM 7. Amend subrule 4.1(9) as follows:

4.1(9) Salesperson prelicense education requirements. As required by Iowa Code section 543B.15(8) and 193E—Chapter 16, the required course of study for the salesperson licensing examination shall consist of 60 classroom or computer-based hours of real estate principles and practices. To be eligible to take the examination, the applicant must complete the ~~salesperson prelicense education~~ 60 classroom or computer-based hours of real estate principles and practices during the 12 months prior to taking the examination. The applicant must also provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. The applicant must complete all the required prelicense education during the 12 months prior to the date of application.

ITEM 8. Rescind subrules **4.1(10)** and **4.1(11)**.

ITEM 9. Amend rule 193E—4.2(543B) as follows:

193E—4.2(543B) License examination. Examinations for licensure as a real estate salesperson shall be conducted by the commission or its authorized representative.

4.2(1) No change.

4.2(2) *Requests for ~~substitution,~~ waiver or variance.* An examinee must meet the requirements set out in Iowa Code section 543B.15. Requests for ~~substitution,~~ waiver~~,~~ or variance of the qualifications for ~~license~~ licensure as required by Iowa Code section 543B.15 shall be submitted in writing and as provided by the commission's rules regarding waivers and variances, which can be found in the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5. The commission will consider each case on an individual basis. ~~It~~ The commission may require additional supporting information. If the applicant's prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a ~~substitution,~~ waiver or variance is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

4.2(3) *Evidence of completion of prelicense education required.* An examinee shall be required to show evidence at the examination site that ~~required prelicense education has~~ 60 classroom or

computer-based hours of real estate principles and practices have been completed. If the commission has granted a ~~substitution,~~ waiver~~,~~ or variance of prelicense education, the letter granting the ~~substitution,~~ waiver~~,~~ or variance will serve as evidence of completion. Persons planning to qualify under rule 193E—5.3(543B) must obtain written authorization from the commission to show at the examination site.

4.2(4) No change.

ITEM 10. Amend rule 193E—4.3(543B), introductory paragraph, as follows:

193E—4.3(543B) Application for salesperson license. An applicant who passes a qualifying salesperson examination will receive a passing score report and an application form for licensure from the testing service. An applicant who passes a qualifying examination and applies for a license must file with the commission a completed application with license fee, proof of required education, and score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

ITEM 11. Amend subrule 4.4(2) as follows:

4.4(2) ~~All first-time salespersons renewing licenses to maintain active status shall complete 36 commission-approved classroom hours by December 31 of the third year of licensure. The following courses satisfy the first license renewal continuing education requirement:~~ Salespersons renewing licenses shall complete approved courses in the following subjects to renew to active status, except in accordance with 193E—Chapter 16.

~~Developing Professionalism and Ethical Practices . . . . . 12 hours~~
~~Buying Practices . . . . . 12 hours~~
~~Listing Practices . . . . . 12 hours~~
Law Update . . . . . 8 hours
Ethics . . . . . 4 hours
Electives . . . . . 24 hours

ITEM 12. Amend subrule 4.5(1) as follows:

4.5(1) *Application forms.* Application forms for renewal of a salesperson license may be obtained from the commission office or may be ~~available~~ found on the commission's Web site. Salespersons may renew electronically or by submitting a written application. While the commission generally mails renewal application forms or reminders to salespersons in the November preceding license expiration, the failure of the commission to mail an application form or reminder or the failure of a salesperson to receive an application form or reminder shall not excuse the salesperson from the requirement to timely renew.

ITEM 13. Rescind subrule **4.6(4)**.

ITEM 14. Renumber subrule **4.6(5)** as **4.6(4)**.

ITEM 15. Amend rule 193E—5.1(543B) as follows:

193E—5.1(543B) Licensees of other jurisdictions. As provided in Iowa Code section 543B.21, a nonresident of this state may be licensed as a real estate broker or a real estate salesperson upon complying with all requirements of Iowa law and with all the provisions and conditions of Iowa Code chapter 543B and commission rules relative to resident brokers or salespersons.

5.1(1) A person licensed ~~as a salesperson~~ in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) ~~shall~~ may qualify ~~only~~ for a salesperson license in Iowa.

5.1(2) A person licensed as a broker or broker associate in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) ~~shall~~ may qualify ~~only~~ for the same type of broker or broker associate license in Iowa. The person must have met all requirements for an Iowa broker license as provided in rule 193E—3.1(543B). If the person does not meet the requirements,

the person shall meet, at a minimum, the requirements for an Iowa salesperson license as provided in 193E—Chapter 4 and shall only qualify for a salesperson license.

5.1(3) No change.

ITEM 16. Amend rule 193E—5.3(543B) as follows:

193E—5.3(543B) License by ~~Iowa-specific~~ examination. A nonresident applicant licensed as a real estate salesperson or broker in a state or jurisdiction which does not have a reciprocal licensing agreement or memorandum with Iowa, or an applicant who does not qualify for reciprocal licensing, may be issued a comparable Iowa license by passing the ~~Iowa portion of the~~ real estate examination under the following circumstances:

5.3(1) Broker. The person has been actively licensed as a broker or broker associate, the person meets all requirements for an Iowa broker's license as provided in rule 193E—3.1(543B), and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the national portion and Iowa portion of the broker real estate examination.

5.3(2) Salesperson. The person has been actively licensed as a salesperson and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the Iowa portion of the salesperson real estate examination.

5.3(3) and **5.3(4)** No change.

ITEM 17. Amend subrule 5.4(7) as follows:

5.4(7) An Iowa licensee wishing to obtain a license in any other state or jurisdiction should contact that state's or jurisdiction's licensing board for information and applications. Contact information and a list of states and jurisdictions that have entered into reciprocal licensing agreements or memorandums with Iowa, including addresses and telephone numbers, are available on the commission's Web site located at ~~http://www.state.ia.us/irec~~ https://plb.iowa.gov/.

ITEM 18. Amend rule 193E—5.6(543B), introductory paragraph, as follows:

193E—5.6(543B) Reinstatement of a license issued by reciprocity. All reinstatement requirements for a real estate broker license or salesperson license issued by examination shall apply to a license issued by reciprocity~~, except that the reinstatement fee is $25 with an original reciprocal license application~~.

ARC 3071C

REGENTS BOARD[681]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 3, "Personnel Administration," Iowa Administrative Code.

The proposed amendments in Item 1 revise subrules 3.39(3) and 3.39(12) regarding promotional and lead worker pay. The proposed amendments in Item 2 revise rule 681—3.129(8A) regarding the grievance procedure.

The Board intends to file these amendments as Adopted and Filed Emergency After Notice, to be effective July 1, 2017, after notice and public comment.

Any interested person may make written comments on the proposed amendments not later than 4:30 p.m. on June 13, 2017, addressed to Tim Cook, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax (515)281-6420; or e-mail tim.cook@iowaregents.edu.

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

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at rule 681—19.18(17A).

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

These amendments are intended to implement Iowa Code section 262.9(3).

The following amendments are proposed.

ITEM 1. Amend subrules 3.39(3) and 3.39(12) as follows:

3.39(3) *Pay on promotion.* An employee who is promoted will be moved to the minimum rate of the new grade, or to a higher rate on the new grade which provides an adjustment, to the employee's present base pay, that is the salary equivalent of no less than one step higher ~~than the employee's present base pay~~ but, at the discretion of the institution, no greater than 5 percent without approval of the merit system director. In no event will the adjustment result in pay above the maximum of the new grade.

If the promotion involves movement to a new grade that is three or more grades higher than the employee's present grade, the resident director may approve, on written request from the employing department, an increase, to the employee's present base pay, that is equivalent to the value of no less than two steps higher ~~than the employee's present base pay~~ but, at the discretion of the institution, no greater than 10 percent without the approval of the merit system director.

For the purpose of calculating the promotional increase, any extra pay such as shift differential pay, pay for special assignment, on-call pay, pay for overtime, or pay for call back shall be excluded as part of the employee's present base pay. The merit review date will be computed from the effective date of promotion and in accordance with 3.39(2). Pay on promotion in accordance with the provisions of ~~subrule 3.39(1), paragraph *"b,"*~~ 3.39(1)*"b"* may be authorized by a resident director and will be reported to the merit system director.

3.39(12) *Pay for lead worker status.* On request of an employing department and with approval of the resident director, an employee who is assigned and performs limited supervisory duties (such as distributing work assignments, maintaining a balanced workload within a group, and keeping attendance and work records) in addition to regular duties~~,~~ may be designated as lead worker in the classification assigned, and paid during the period of such designation the employee's base salary plus the equivalent of no less than one step but, at the discretion of the institution, no greater than 5 percent without the approval of the merit system director.

ITEM 2. Amend rule 681—3.129(8A) as follows:

681—3.129(8A) Grievances. Disputes or complaints by permanent employees regarding the interpretation or application of institutional rules governing terms of employment or working conditions (other than general wage levels) or the provisions of these merit system rules (other than disputes whose resolution is provided for in 681—3.127(8A) and 681—3.128(8A)) will be resolved in accordance with the following procedure, except at institutions where a varied procedure has been approved by the merit system director in accordance with 3.129(1). Employees in an initial probationary period will be allowed access to the grievance procedure with the right to appeal in writing at steps within the institution. The institutional representative may permit an oral presentation at any step if the institutional representative deems one necessary. At each step of the grievance procedure, the employee may be represented by one or two ~~persons~~ coworkers of the employee's choosing. The name of such representatives will be noted on the written grievance and on each subsequent appeal. Presentations, reviews, investigations, and hearings held under this procedure may be conducted during working hours, and employees who participate in such meetings will not suffer loss of pay as a result thereof.

If an employee does not appeal a decision rendered at any step of this procedure within the time prescribed by these rules, the decision will become final. If an institutional representative does not reply to an employee's grievance or appeal within the prescribed time, the employee may proceed to the next step. With the consent of both parties, any of the time limits prescribed in these rules may be extended.

Step 1. ~~Dissatisfied employees~~ A dissatisfied employee will first discuss ~~their~~ the employee's problem with ~~their~~ the employee's immediate supervisor. It is presumed that the majority of disputes, complaints, or misunderstandings will be resolved at this point. If the employee is still dissatisfied after

such discussion, the employee may within ten days after the occurrence of the matter leading to the grievance or within ten days after such time that the employee has, or could reasonably be expected to have, knowledge of such occurrence, file a written grievance with the employee's ~~immediate supervisor~~ department head or designee. A written grievance will contain a brief description of the complaint or dispute and the pertinent circumstances and dates of occurrence. It will specify the institutional or merit system rule which has allegedly been violated and will state the corrective action desired by the employee. ~~The supervisor will review the grievance with the employee and will transmit the supervisor's decision to the employee in writing within five days after receiving the grievance.~~ The grievance will be signed and dated by the employee. The department head or designee will investigate the grievance and will give the employee or a coworker of the employee's choosing the right to present the employee's case orally. The department head or designee will notify the employee of the decision in writing within ten days after receiving the grievance.

~~*Step 2.* If the employee is not satisfied with the decision of the supervisor, the employee may within five days after receiving that decision appeal it to the department head. Such an appeal will be in writing and will contain all of the information included in the initial grievance, the decision of the supervisor, and any other pertinent information the employee may wish to submit. The appeal will be signed and dated by the employee. The department head will investigate the grievance and will give the employee or a representative of the employee's choosing the right to present the employee's case orally. The department head may affirm, reverse, or modify the supervisor's decision and will notify the employee of the decision in writing within ten days after receiving the appeal.~~

Step ~~3~~ 2. If the employee is not satisfied with the decision of the department head or designee, the employee may within five days after receiving that decision, appeal it to the dean of the college or the head of the major operating division or designee(s) in which the employee is employed. The dean or the division head and the resident director or designee(s) will jointly represent the institution at this step of the appeal procedure. The appeal will be in writing and will include all of the information included in the initial grievance and subsequent appeals, all the decisions related thereto, and any other pertinent information the employee may wish to submit. The appeal will be signed and dated by the employee.

The dean of the college or head of the division and the resident director or designee(s) will investigate the grievance and will give the employee or a ~~representative~~ coworker of the employee's choosing the right to present the employee's case orally. The institutional representatives may affirm, reverse, or modify the decision of the department head~~,~~ and will notify the employee of their decision in writing within ten days after receiving the appeal.

Step ~~4~~ 3. If the employee is not satisfied with the decision rendered at Step ~~3~~ 2 of the grievance procedure, the employee may within five days after receiving that decision appeal it to the chief administrator of the institution. The appeal will be in writing and will include all of the information included in the initial grievance and subsequent appeals, all decisions related thereto, and any other pertinent information the employee may wish to submit. The appeal will be signed and dated by the employee.

The chief administrator or the chief administrator's designee will investigate the grievance and will give the employee or a coworker of the employee's choosing the right to present the employee's case orally. The chief administrator may affirm, reverse, or modify the decision rendered at Step ~~3~~ 2 and will notify the employee of the administrator's decision in writing within ten days after receiving the appeal.

Step ~~5~~ 4. Employees not satisfied with the decision rendered under Step 4 3 may within five days after receiving that decision request a hearing before an arbitrator. Such a request will be in writing, will include all of the information included in the initial grievance and subsequent appeals, all of the decisions related thereto, and any other pertinent information the employee may wish to submit.

The appeal will be signed and dated by the employee and will be directed to the merit system director who will arrange for a hearing before an arbitrator as prescribed under 3.129(2). The arbitrator will be expected to render a decision within 30 calendar days following the conclusion of the hearing.

The merit system director shall have the right to rule whether a case is grievable and arbitrable under the merit system. The merit system director shall have the right to refuse to refer to arbitration any grievance not found to be in full compliance with these rules involving the grievance procedure. The

board of regents shall retain jurisdiction to review decisions of the merit director as to whether a matter is grievable or arbitrable upon appeal by an employee.

3.129(1) *Institutional grievance procedure.* An institution may develop a grievance procedure for all or a segment of its employees that varies from the procedure prescribed in 681—3.129(8A), provided that such a procedure begins with discussion between the employee and the employee's immediate supervisor and provides for a final hearing in accordance with Step ~~5~~ 4 of the grievance procedure prescribed herein. Such an institutional procedure will incorporate all the rights provided employees in this chapter, will be made known to the employees to whom it applies, and must be approved by the merit system director. In the absence of an approved institutional procedure, 681—3.129(8A) will apply.

3.129(2) *Appeals.* The board of regents will approve the use of a single arbitrator in hearing an appeal. The selection of the arbitrator shall be made from a panel of arbitrators as referred from the Federal Mediation and Conciliation Service or the Iowa public employment relations board with a preference for those Iowans so certified.

The arbitrator will hear a dispute appealed to the last step of the grievance procedure and render a decision thereon subject only to review by the courts.

The arbitrator will establish procedures for the conduct of the hearing in a fair and informal manner that will afford each party reasonable and ample opportunity for case presentation and to rebut the presentation of the other. The arbitrator will be expected to render a decision to the involved parties and to the board of regents within the prescribed time.

REVENUE DEPARTMENT[701]

Notice of Electric, Natural Gas and Water Delivery Tax Rate Changes

Pursuant to the authority of Iowa Code sections 437A.4, 437A.5, and 437B.3, the Director of Revenue hereby gives notice of the changes to the electric, natural gas, and water delivery tax rates. These rates will be used in conjunction with the number of kilowatt hours of electricity, the number of therms of natural gas, and the number of gallons of water delivered to consumers in calendar year 2016 by each taxpayer, for replacement taxes payable in the 2017-2018 fiscal year.

2016 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA
RATE CHANGES ONLY

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3074	Aurelia Mun. Electric Utility	0.00008331
3213	Bellevue Municipal Utilities	0.00008788
3228	Bigelow Municipal Electric Utility	0.00243936
3217	Burt Municipal Electric Utility	0.00000199
3237	Coon Rapids Municipal Utilities	0.00052157
3095	Greenfield Municipal Utilities	0.00110806
3267	Hopkinton Municipal Utilities	0.00000812
3109	Lenox Mun. Light & Power	0.00043024
3291	Milford Municipal Utilities	0.00018034

CO. #	IOUs — ELECTRICS	DELIVERY TAX RATE
7206	Amana Society Service Co.	0.00054439

REVENUE DEPARTMENT(cont'd)

CO. #	RECs	DELIVERY TAX RATE
4319	Access Energy Coop	0.00069346
4219	Calhoun County Electric Coop	0.00115952
4220	Cass Electric Coop	0.00004057
4223	Heartland Power Coop	0.00034579
4287	Consumers Energy	0.00189833
4249	Farmers Electric Coop - Kalona	0.00047818
4253	Franklin Rural Electric Coop	0.00081291
4254	Freeborn-Mower Cooperative	0.00135477
4268	Humboldt County REC	0.00096090
4280	Lyon Rural Electric Coop	0.00053384
4308	Osceola Electric Coop	0.00029779
4348	Western Iowa Power Coop	0.00108823
4353	Wright County REC	0.00048449

2016 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA
RATE CHANGES ONLY

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5238	Coon Rapids Municipal Gas	0.00005707
5275	Lamoni Municipal Gas	0.00084610
5281	Manilla Municipal Gas	0.00032775
5317	Rock Rapids Municipal Gas	0.00013552
5344	West Bend Municipal Gas	0.00001900
5349	Winfield Municipal Gas	0.00062826

CO. #	IOUs — GAS	DELIVERY TAX RATE
5335	United Cities Gas	0.00871092

2016 RATE-REGULATED WATER UTILITIES
DELIVERY TAX RATE BY SERVICE AREA

CO. #	RATE REGULATED WATER	DELIVERY TAX RATE
6020	Iowa American Water	0.00057387

ARC 3066C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 39, "Filing Return and Payment of Tax," Iowa Administrative Code.

Rule 701—39.12(422) implements Iowa Code section 422.21(2), which provides an extension for filing Iowa income tax returns for certain people serving in combat zones or hazardous duty areas and for certain other members of the military. This extension is available, both for Iowa purposes and at the federal level, to certain civilians serving in support of the military in combat zones or hazardous duty areas. However, the existing rule does not mention civilians who may qualify, which has led to confusion among affected Iowa taxpayers. This proposed amendment provides updated guidance on which civilians qualify and how a qualifying person may apply for an extension with the Department. This amendment also reorganizes the rule to make it more user-friendly and removes some outdated references.

Interested persons may make written comments on the proposed amendment on or before June 13, 2017. Written comments on the proposed amendment should be directed by mail to Ben Clough, Legal Services, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; or by e-mail to ben.clough@iowa.gov. Persons who wish to convey their views orally should contact Ben Clough, Legal Services, Department of Revenue, by telephone at (515)725-2176 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by June 13, 2017.

Any person who believes that the application of the discretionary provisions of these rules 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).

After analysis and review of this rule making, the Department finds that this amendment is not likely to have a significant impact on jobs.

This amendment is intended to implement Iowa Code section 422.21.

The following amendment is proposed.

Amend rule 701—39.12(422) as follows:

701—39.12(422) Tax benefits for persons in the armed forces deployed outside the United States and for certain other persons serving in support of those forces.

39.12(1) *Extension of deadlines.*

a. Extension of certain deadlines for certain military personnel.

(1) For tax years ending after August 2, 1990, ~~a number of state tax benefits are authorized~~ the time period to file state income tax returns and to perform certain other acts related to the department ("certain other acts related to the department" is defined in paragraph 39.12(1)*"e"* below) is extended for persons in the armed forces ~~who~~:

1. Who serve in an area designated by the President ~~and~~ or the Congress as a combat zone. ~~Similar state tax benefits are also authorized for persons who~~

2. Who serve in an area designated by the President ~~and~~ or the Congress as a qualified hazardous duty area ~~for tax years beginning on or after January 1, 1999~~. ~~In addition, uniform state tax benefits are authorized for persons in the armed forces of the United States who~~

3. Who were deployed outside the United States in an operation designated by the Secretary of Defense as a contingency operation as defined in 10 U.S.C. § 101(a)(13), or which became a contingency operation by the operation of law. Persons who were deployed in a contingency operation who ceased to participate in such operation on or after May 21, 2003, are considered to be eligible individuals for purposes of being granted additional time to perform certain acts with the department to the extent the period for performing an act did not expire prior to May 21, 2003, or a later date if the person ceased to participate in the contingency operation on a date after May 21, 2003.

(2) For tax years beginning on or after January 1, 2008, the additional time to file returns and perform other acts related to the department described in this subrule is available to all active duty military service members in the armed forces, all armed forces military reservists, and all national guard personnel who are deployed outside the United States. These armed forces, armed forces reserve and national guard personnel are not required to be deployed outside the United States in a combat zone, qualified hazardous duty area, or contingency operation to be allowed the additional time to file Iowa returns and perform other acts related to the department.

b. Extension applicable to certain civilians. Those persons who were serving in support of ~~the~~ armed forces personnel in a combat zone or those persons who were serving in support of armed forces personnel in a qualified hazardous duty area are also eligible for the ~~state tax benefits~~ extension of the time period to file state income tax returns and to perform certain other acts related to the department. Persons eligible under this provision include certain civilians who were working in a combat zone and directly supporting military operations. Iowa allows this extension for those civilians who qualify for a federal extension under Section 7508(a) of the Internal Revenue Code. Examples of civilians who may be eligible are members of the Red Cross and contractors or civilian employees who worked in a combat zone. ~~The eligible individuals are given the same additional time period to file state income tax returns and perform other acts related to the department of revenue as would constitute timely filing of returns or timely performance of other acts as described in Section 7508(a) of the Internal Revenue Code. "Other acts related to the department of revenue" includes filing claims for refund for any type of tax administered by the department, making tax payments other than withholding payments, filing appeals on tax matters, filing returns for taxes other than income tax, and performing other acts such as making timely contributions to individual retirement accounts.~~

c. Extension applicable to spouses of eligible individuals. The additional time period for filing returns and performing other acts applies to the spouse of the person who was in the combat zone or the qualified hazardous duty area or the spouse of a person who was serving in support of persons in the combat zone or the hazardous duty area to the extent the spouse files jointly or separately on the combined return with the person who was in the combat zone or the hazardous duty area, or when the spouse is a party with the person who was serving in support of persons in the combat zone or hazardous duty area to any tax matter with the department for which the additional time period is allowed.

d. Length of the extension period. Eligible individuals are given the same additional time period to file state income tax returns and perform other acts related to the department as would constitute timely filing of returns or timely performance of other acts as described in Section 7508(a) of the Internal Revenue Code. The additional time period for filing state returns and performing other acts is 180 days after the person leaves the combat zone or hazardous duty area or ceases to participate in the contingency operation ~~which is the same time period as allowed in federal income tax law~~. However, a person who was hospitalized because of illness or injury in the combat zone or the hazardous duty area has up to five years to file returns or perform certain acts with this department after leaving the combat zone or hazardous duty area.

e. Other acts related to the department defined. "Other acts related to the department" includes filing claims for refund for any type of tax administered by the department, making tax payments other than withholding payments, filing appeals on tax matters, filing returns for taxes other than income tax, and performing other acts such as making timely contributions to individual retirement accounts.

39.12(2) *Application for the extension.* ~~For tax years beginning on or after January 1, 1995, certain persons performing peacekeeping duties in a location designated by Congress as a qualified hazardous duty area or other individuals performing military duties overseas in support of the persons in the~~

REVENUE DEPARTMENT[701](cont'd)

~~hazardous duty area are eligible for the tax benefits described above. See rule 701—39.14(422) for additional information on the Bosnia-Herzegovina hazardous duty area.~~ In order to claim the extension described in subrule 39.12(1), eligible taxpayers should notify the department of their eligibility by sending the information listed below to the e-mail address or other address listed on the department's Web site.

a. Contents of the notification. The notification sent to the department should include:

(1) The taxpayer's name, and spouse's name, if applicable.

(2) The taxpayer's stateside address, and spouse's address, if applicable.

(3) The taxpayer's date of birth, and spouse's date of birth, if applicable.

(4) The date the taxpayer was deployed to the combat zone or other qualifying area.

(5) For military personnel, an official document that indicates the taxpayer's area of operation.

(6) For qualifying civilians, a letter of authorization or similar letter from the taxpayer's employer, or a letter from the military stating that the taxpayer served in a "tax-free zone" or "Combat Zone Tax Exclusion Area (CZTE)."

b. Who may submit the notification of eligibility for the extension. The notification of eligibility to the department may be submitted by the taxpayer, the taxpayer's spouse, or an authorized agent or representative of the taxpayer.

~~**39.12(3)** For tax years beginning on or after January 1, 2008, the additional time to file returns and perform other acts related to the department of revenue described in subrule 39.12(1) is available to all active duty military service members in the armed forces, all armed forces military reservists, and all national guard personnel who are deployed outside the United States. These armed forces, armed forces reserve and national guard personnel are not required to be deployed outside the United States in a combat zone, qualified hazardous duty area, or contingency operation to be allowed the additional time to file Iowa returns and perform other acts related to the department of revenue.~~

This rule is intended to implement Iowa Code sections 422.3 and 422.21 ~~as amended by 2009 Iowa Acts, Senate File 253~~.

ARC 3067C

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 208.26, the Division of Soil Conservation and Water Quality hereby gives Notice of Intended Action to amend Chapter 60, "Minerals Program," Iowa Administrative Code.

The proposed amendment changes the renewal period for mine site registration from one year to two years. The fee is maintained at the same annual rate by changing it from $35 to $70.

Any interested persons may make written suggestions or comments on the proposed amendment on or before June 13, 2017. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to Margaret.Thomson@IowaAgriculture.gov.

This proposed amendment is subject to the Division's general waiver provisions.

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

This amendment is intended to implement Iowa Code chapter 208.

The following amendment is proposed.

SOIL CONSERVATION AND WATER QUALITY DIVISION[27](cont'd)

Amend subrules 60.31(1) and 60.31(2) as follows:

60.31(1) *Registration renewal.* All site registrations shall expire on December 31 of ~~each~~ the second year. Registrations shall be renewed by the division upon submittal of renewal fee by the operator within 30 days of the expiration date.

60.31(2) *Notice of registration renewal and fee.* All registrations shall be renewed by the operator upon receipt of a fee statement from the division.

The registration renewal fee shall be ~~$35~~ $70 per site.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking Ronald L. Hansen, and Auditor of State Mary Mosiman has established today the following rates of interest for public obligations and special assessments. The usury rate for May is 4.50%.

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 May 9, 2017, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

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

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

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

ARC 3070C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 96.11, the Director of the Department of Workforce Development hereby gives Notice of Intended Action to amend Chapter 21, "Unemployment Insurance Services Division," Chapter 22, "Employer Records and Reports," Chapter 23, "Employer's Contribution and Charges," Chapter 24, "Claims and Benefits," and Chapter 25, "Benefit Payment Control," Iowa Administrative Code.

These proposed amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development. The amendments also bring the rules up to date by reflecting changes in technology and efficiencies developed within the agency since the affected rules were adopted. The agency needs to have administrative rules that address these changes.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before June 13, 2017, by sending them to David J. Steen, Attorney, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to david.steen@iwd.iowa.gov.

These amendments do not have any fiscal impact on the State of Iowa.

Waiver provisions do not apply to this rule making.

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

These amendments are intended to implement Iowa Code chapter 96.

The following amendments are proposed.

ITEM 1. Rescind rule 871—21.1(96) and adopt the following **new** rule in lieu thereof:

871—21.1(96) Unemployment insurance services division. The primary responsibility of the unemployment insurance services division is to administer the provisions of the Iowa employment security law and related federal programs in accordance with pertinent laws, regulations, and policies. Attorneys who report to the administrator of the unemployment insurance services division perform the legal services for the division pursuant to Iowa Code section 96.17, which empowers the division to employ attorneys to represent it and give advice on all matters coming before it in conjunction with the administration of Iowa Code chapter 96. The division administers the payment of job insurance benefits to eligible individuals, determines which employers are subject to the state and federal laws enacted in this area, supervises the collection of taxes from these employers, and oversees a program to control the quality of benefit payment and revenue collection. These functions are performed by the following bureaus:

21.1(1) *Benefits bureau.* The benefits bureau determines the eligibility of individuals claiming unemployment insurance. In addition, the bureau also processes unemployment compensation for federal employees (UCFE), unemployment insurance for ex-service members (UCX), claims for trade readjustment assistance (TRA), voluntary shared work (VSW), and disaster unemployment assistance (DUA). It is also responsible for payments of other special federal unemployment insurance benefits as agreed to by the United States Department of Labor and the state of Iowa.

a. The bureau is responsible for screening all employer protests and investigates all labor dispute protests and issues appropriate decisions. This bureau determines individuals' eligibility on disputed claims for unemployment insurance benefits based on Iowa employment security law and Iowa administrative rules and issues a determination. The bureau reviews decisions that determine

which employers will receive charges on claims for unemployment insurance benefits and investigates claims for missing wages. The bureau performs fact-finding interviews with claimants and employers to resolve issues discovered by recording the responses the claimant provides to questions asked in the weekly continued claim certification process. The bureau issues supplemental benefit payments due to misreported earnings or eligibility disqualifications. It also responds to communications involving technical matters related to unemployment insurance and corrects necessary records and the database due to subsequent appeal decisions which reverse or modify the prior decision issued on a claim.

b. The bureau oversees specials claims for processing, which include claims for UCFE, UCX, TRA, VSW, DUA, and any other federal unemployment insurance programs. The bureau also administers training extension benefits (TEB), alternate base period (ABP), business closing claims, and department-approved training (DAT). The bureau computes and authorizes payments due, maintains needed records, and makes adjustments or redeterminations as applicable. This bureau is also responsible for processing initial interstate claims, assisting claimants in calling in their continued claims for payment, notifying employers of claim filings, processing overpayments and underpayments, adjudicating issues, processing interstate appeals, and processing combined wage claims. The bureau is responsible for all overpayment billing activity that results in an overpayment setup or refund, overpayment decision letter, or overpayment billing notice. The bureau is responsible for overpayment recovery programs, including withholding of Iowa and federal income tax refunds, Iowa lottery prizes, Iowa vendor payments, and the interstate reciprocal overpayment recovery arrangement. The bureau is responsible for the issuance of duplicate benefit payments for lost, stolen, outdated, or returned payments. The bureau authorizes and issues direct deposit transactions, debit cards and special warrants. The bureau verifies financial institution corrections of direct deposit routing and account numbers and updates the database records.

c. The bureau assigns document control information to each paper document, which provides automated electronic workflow routing, document retention criteria, document locating information, and computer updates. The bureau prepares documents and computer records for release to the public under subpoena or waiver provisions and collects record-processing fees.

d. The bureau is responsible for the voluntary income tax withholding program in which state and federal taxes are withheld from unemployment insurance benefits. The bureau is responsible for reporting tax withholdings and taxable unemployment insurance benefits to the Internal Revenue Service, Iowa department of revenue, and claimants.

21.1(2) *Tax bureau.* The tax bureau is responsible for the maintenance and control of all records of unemployment insurance tax paid by liable employers in the state of Iowa. Taxes collected are deposited in a fund to be subsequently used for benefit payments. The bureau also provides services to other states that request assistance with unemployment insurance enforcement of Iowa-based employers that conduct business in those states.

a. The bureau maintains financial records on employers; assigns rates each year to employers; makes all necessary adjustments to ensure proper charging to employers of benefits chargeable to them; maintains records of employer overpayments and refunds; and maintains the necessary contacts with employers' accountants, attorneys, and the general public to ensure the proper and timely submission of all the required reports to the unemployment insurance services division. The bureau ensures that all unemployment insurance-related documents received are scanned into a document repository.

b. The bureau is responsible for collecting and depositing all money received for contribution reports, delinquent contribution reports, benefit reimbursements, and interest and penalties with the state treasurer's office. Staff initiates routine legal actions such as the filing of liens, garnishments, and bankruptcies. Employers and claimants are contacted by mail, telephone, or e-mail or personally to initiate the collection process.

c. It is the bureau's responsibility to contact Iowa and out-of-state employers that do business in Iowa to establish taxpayers' liability under the law; explain the law's provisions; secure information and make determinations pertaining to new accounts, successorships and terminating tax liability; give information and assistance to ensure compliance in the preparation of tax reports; conduct investigations on federal unemployment tax Act (FUTA) discrepancy problems, contractor registration issues, business

closings, and claimant requests for omitted wage credits; determine employer/employee and independent contractor relationship issues; assist in fraud investigations; conduct payroll and financial audits; and provide expert-witness testimony at employer liability hearings.

d. The bureau also assigns all field audit work. Information is entered into the automated system which generates materials to be utilized by the field audit staff in conducting an employer inquiry and audit.

21.1(3) *Integrity bureau.* The integrity bureau consists of three distinct work units: the investigations and recovery unit, the quality control unit, and the benefits collections unit.

a. The investigations and recovery unit is responsible for aggressive action to prevent, detect, investigate and penalize fraudulent actions on the part of employing units and individuals claiming unemployment insurance benefits. The bureau verifies whether aliens are entitled to unemployment insurance and investigates and disqualifies those who are not eligible. The bureau conducts the fictitious-employer detection program to discover employers set up for the purpose of fraudulent activities. The bureau prosecutes violations of the Iowa employment security law, including fraudulent receipt of unemployment insurance benefits, in conjunction with each county attorney in Iowa. The bureau investigates and determines whether an unemployment insurance warrant has been forged and whether it should be reissued.

b. The benefits collections unit is responsible for the collection of benefit overpayments, including penalties for fraudulent claims. The bureau is responsible for depositing all money received for benefit overpayments with the state treasurer's office. Staff initiates routine legal actions such as the filing of liens, garnishments, and bankruptcies. Claimants are contacted by mail, telephone, or e-mail or personally to initiate the collection process. The bureau analyzes the effectiveness of revenue collection processes for the unemployment insurance program.

c. The quality control unit reports directly to the integrity bureau chief as the unit works to support the development and execution of corrective action plans for the improvement of the unemployment insurance program. The unit is responsible for the collection and analysis of data pertaining to both the accuracy of unemployment insurance benefit payments and unemployment insurance benefit denial determinations. In addition, the unit is responsible for validation of the unemployment insurance data reports, identification and analysis of risk factors which could threaten the unemployment insurance program, and maintenance of the data-processing capabilities to store and transmit various agency-required reports to the federal government.

This rule is intended to implement Iowa Code chapter 96.

ITEM 2. Amend subrule 22.3(4) as follows:

22.3(4) Employer to file report even when no payroll. Every qualified or subject employer is required to ~~send in~~ electronically file an Employer's Contribution ~~and~~ Payroll Report~~, Form 65-5300,~~ each quarter. Even though an employer finds that for some particular quarter no contributions are due~~,~~ or ~~they have~~ the employer has no employees during the period covered, a report must be filed with the department.

ITEM 3. Amend subrule 22.3(6) as follows:

22.3(6) Each ~~Form 65-5300,~~ Employer's Contribution ~~&~~ and Payroll Report~~,~~ shall include:

a. The social security number of, name of (last name first), and total wages paid to each employee during the calendar quarter. All corrections to previous reports must be submitted ~~on Form 68-0061, Employer's Wage Adjustment Report~~ electronically. All employees' wages will be reported by the reporting unit under which the work was performed. See rules 871—23.3(96) through 871—23.6(96).

b. The sum of the total and taxable wages paid to all employees during the calendar quarter. ~~If reported electronically, the~~ The sum of the total and taxable wages will be computed for the employer. The electronic system will compute the taxable wages for each employee. If the employer is claiming taxable wages reported to another state, the amount claimed and the state ~~that~~ to which the wages were reported ~~to~~ will be listed.

c. The amount of contribution due for the calendar quarter. ~~If the report is filed electronically, the~~ The system will compute and enter the contribution due.

d. The amount of interest due, if any, for the calendar quarter. ~~If the report is filed electronically, the~~ The system will compute and enter ~~the~~ any interest due.

e. The amount of penalty due, if any, for the calendar quarter. ~~If the report is filed electronically, the~~ The system will compute and enter any penalty due.

f. The total amount of contribution, interest and penalty due for the calendar quarter. ~~If the report is filed electronically, the~~ The system will compute and enter the total amount due.

g. Rescinded IAB 5/5/10, effective 6/9/10.

h. The amount of net remittance due for the calendar quarter; however, if the amount of net remittance due is less than $1, the employer need not submit payment. ~~If the report is filed electronically, the~~ The system will compute and enter the net remittance due.

i. The total number of employees listed on the report. ~~If the report is filed electronically, the~~ The system will compute and enter the total number of employees on the report.

j. The amount of extraordinary pay which was paid to the employees during the calendar quarter for each reporting unit.

k. The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter for each reporting unit.

l. The number of the county in which the reporting unit is located if only one business activity is conducted at only one worksite during the calendar quarter; however, if the same business activity is conducted at more than one worksite or if different business activities are conducted at one or more worksites, ~~the employer shall also be required to complete and return the Form 65-5519, Multiple Worksite Report, which shall include for each worksite the total number of employees paid wages during the pay periods~~ each worksite shall include the total number of employees paid wages during the pay period which include the twelfth day of each month of the calendar quarter and the total wages paid during the calendar quarter. The system will compute and enter taxable wages ~~if the report is filed electronically~~.

(1) The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter for all worksites ~~as reported on the Form 65-5519, Multiple Worksite Report,~~ should equal the total number of employees reported for that month on the ~~Form 65-5300,~~ Employer's Contribution ~~&~~ and Payroll Report.

(2) The total wages paid to all employees at all worksites ~~as reported on the Form 65-5519, Multiple Worksite Report,~~ should equal the total wages reported on the ~~Form 65-5300,~~ Employer's Contribution ~~&~~ and Payroll Report.

(3) It could be possible for wages to be reported for a worksite without corresponding employment being reported in any of the months during the quarter because wages paid are reportable for the full 13-week period in the calendar quarter, while employment is reportable ~~on the Form 65-5300, Employer's Contribution & Payroll Report,~~ when such employment occurs during the pay periods which include the twelfth day of any month in the calendar quarter.

m. The reason (seasonal change, labor dispute, layoff, recall, worksite opening, or worksite closing) for the increase or decrease in total employment during the calendar quarter.

n. Rescinded IAB 3/5/03, effective 4/9/03.

o. The ~~signature, written or~~ electronic~~,~~ signature of the owner, responsible officer, or authorized agent of the employer certifying that the information given is true and correct to the best of the signer's knowledge and belief, the date the report was submitted and the telephone number of the signer.

p. Such other schedules or reports as may be required, duly completed in all substantial respects on such forms and in accordance with such instructions as the department may provide or approve.

ITEM 4. Amend rule 871—22.6(96) as follows:

871—22.6(96) Employer changing status, address or name required to file report. Any employer who terminates business for any reason whatsoever, or transfers or sells all or a substantial part of the assets of the organization, trade or business to another, or changes the trade name of such business or address thereof shall, within ten days after such termination, transfer, or change of name or address, give notice ~~in writing~~ to the department of that fact. The employer shall set forth in such notice the former

name~~,~~ and address of the business, the new name, telephone number and address, the name of any new owner, and the employer's own name, telephone number and present address. Such notification shall be ~~on Form 60-0111, Employer's Notice of Change, or on Form 65-5313, Employer's Delinquency Notice~~ submitted electronically.

This rule is intended to implement Iowa Code sections 96.11 and 96.8(4).

ITEM 5. Amend rule 871—22.16(96) as follows:

871—22.16(96) ~~Transmittal~~ Electronic transmittal of contribution payments.

22.16(1) ~~*Effect of postmark date.*~~ An employing unit or person acting on behalf of one or more employing units must transmit payment of contributions to the department electronically.

~~*a.* When the due date for filing reports and paying contributions falls on Saturday, Sunday or a legal holiday it is sufficient compliance with the law if reports and contributions are postmarked on or before midnight of the next succeeding business day following such Saturday, Sunday or legal holiday.~~

~~*b.* Contributions, if mailed, shall be deemed to have been paid on the date of mailing as indicated by the postmark on the cover thereof. If no postmark date on the cover, the date received by the department shall be deemed date of payment.~~

22.16(2) ~~Reserved.~~ Once an employing unit transmits payment of contributions to the department electronically, the employing unit must submit all subsequent payments of contributions to the department electronically.

This rule is intended to implement Iowa Code sections 96.7(1) and 96.14(2).

ITEM 6. Amend rule 871—23.48(96) as follows:

871—23.48(96) Previously covered employers. If a contributory employer's account has been properly terminated and the employer is again determined liable or a reimbursable employer again elects to be contributory, the employer shall ~~be treated the same as a newly covered employer, except the employer will not receive a new account number. The employer's wage information prior to the termination will not be used for tax rate or taxable wage calculations~~ receive a new account number and be treated the same as a newly covered employer.

This rule is intended to implement Iowa Code sections 96.7 and 96.8.

ITEM 7. Amend paragraph **24.2(1)"a"** as follows:

a. Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment, shall ~~report in person to the nearest workforce development center which takes claims and shall~~ file an initial claim for benefits electronically, in person at a local department office, or by other means prescribed by the department and register for work. A claim filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.

~~(1) An individual may file an initial claim for unemployment benefits by telephone, in person or other means prescribed by the department or may call the service center during regular business hours. Claims filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.~~

~~(2) Reserved.~~

ITEM 8. Amend paragraph **24.2(1)"e"** as follows:

e. In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

(1) ~~The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department.~~ An individual who files a ~~voice response~~ weekly continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or ~~be paid by the mailing of a warrant on a biweekly basis~~ on a selected debit card.

(2) In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.

(3) The department retains the ultimate authority to choose the method of reporting and payment.

ITEM 9. Amend paragraph **24.2(1)"g"** as follows:

g. No continued claim for benefits shall be allowed until the individual claiming benefits has completed a ~~voice response~~ continued claim or claimed benefits as otherwise directed by the department.

(1) The weekly ~~voice response~~ continued claim shall be transmitted not earlier than ~~noon of~~ 8 a.m. on the Sunday following the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.

(2) An individual claiming benefits using the weekly ~~voice~~ continued claim system shall personally answer and record such claim on the system unless the individual is disabled and has received prior approval from the department.

(3) The individual shall set forth the following:

~~(1)~~ 1. That the individual continues the claim for benefits;

~~(2)~~ 2. That except as otherwise indicated, during the period covered by the claim, the individual was fully or partially unemployed, earned no gross wages and received no benefits, was able to work and available for work;

~~(3)~~ 3. That the individual indicates the number of employers contacted for work;

~~(4)~~ 4. That the individual knows the law provides penalties for false statements in connection with the claim;

~~(5)~~ 5. That the individual has reported any job offer received during the period covered by the claim;

~~(6)~~ 6. Other information required by the department.

ITEM 10. Amend subrule 24.2(3) as follows:

24.2(3) Filing a claim for unemployment insurance benefits (interstate only).

a. Initial interstate claims. ~~The filing of an initial interstate claim shall conform to all requirements of this rule with the exception of the initial claim form. Both agent and liable states shall use the Initial Interstate Claim, Form 61-1000(IB-1), unless otherwise directed by the Interstate Handbook.~~ All interstate claimants must file an Iowa claim electronically or through a department representative.

b. ~~Rescinded IAB 8/6/03, effective 9/10/03.~~ When the department is acting as an agent for another state unemployment insurance agency with respect to the filing of an initial claim for benefits, the department shall require an interstate claimant to complete and file an Initial Interstate Claim, Form 61-1000(IB-1), unless otherwise directed by the interstate handbook.

ITEM 11. Amend subrule 24.8(1) as follows:

24.8(1) ~~Mailing~~ Issuance of a notice of the filing of an initial claim or a request for wage and separation information to employing units.

a. The Form 65-5317, Notice of Claim, and the Form 68-0221, Request for Wage and Separation Information, shall be ~~addressed to~~:

(1) ~~The~~ Addressed to the address or addresses as requested by the employing unit and agreed to by the department~~; or~~,

~~(2) The~~ to the business office of the employing unit where the records of the individual's employment are maintained~~;~~, or

~~(3) The~~ to the employing unit's place of business where the individual claiming benefits was most recently employed~~.~~; and

(2) Sent electronically via the United States Department of Labor State Information Data Exchange System (SIDES).

b. No change.

ITEM 12. Amend paragraph **24.8(2)"d"** as follows:

d. The employing unit has the option of notifying the department under conditions which, in the opinion of the employing unit, may disqualify an individual from receiving benefits. The notification may be ~~made by mail using Form 60-0154, Notice of Separation, or by telephone using a telephone number designated by the department~~ submitted electronically.

(1) and (2) No change.

ITEM 13. Rescind and reserve paragraph **24.8(3)"c."**

ITEM 14. Amend paragraph **24.9(2)"a"** as follows:

a. When a protest of an initial claim for benefits is filed, the department shall mail to the individual claiming benefits, and the most recent or any other base period employing unit, ~~either a Form 60-0186 (manually generated) or a~~ Form 65-5323 ~~(computer generated)~~, Unemployment Insurance Decision, which affects the individual's right to benefits.

ITEM 15. Amend paragraph **24.9(2)"b"** as follows:

b. ~~The interested parties shall~~ When an issue could result in a decision detrimental to an interested party, the interested party shall be afforded the opportunity to present facts and evidence ~~in person or by telephone at~~ which may include an informational fact-finding interview scheduled by the department. An interested party, at the party's expense and with the party's equipment, may ~~tape~~ record (video or audio) the proceedings. All participants must be informed of the taping of the interview. The taping of the interview must not be disruptive or distracting in nature.

ITEM 16. Rescind and reserve subrule **24.23(24)**.

ITEM 17. Amend subrule 24.25(10) as follows:

24.25(10) The claimant left employment to accompany the spouse to a new locality. No disqualification shall be imposed when Iowa Code section 96.5(1)*"b"* is applicable.

ITEM 18. Amend subrules 24.31(2), 24.31(5) and 24.31(6) as follows:

24.31(2) If the claimant has the qualifying wages for the establishment of a second benefit year as specified in Iowa Code section 96.4(4) which were earned prior to the filing of the previous claim, the claimant must, during or subsequent to that year, have worked in (except in back pay awards) and have been paid wages for insured work totaling at least ~~$250,~~ eight times the claimant's weekly benefit amount from the claimant's previous benefit year as of the benefit year end date to fulfill the condition to be eligible for benefits on a new claim. Vacation pay, severance pay and bonuses are not considered as wages for second benefit year requalification purposes.

24.31(5) The amount equal to ~~$250~~ eight times the claimant's weekly benefit amount from the claimant's previous benefit year in insured work need not be in addition to the qualifying wages for the establishment of a second benefit year.

24.31(6) Disqualification for lack of ~~the $250~~ eight times the claimant's weekly benefit amount from the claimant's previous benefit year in insured work shall be removed upon the verification that the claimant worked in and has been paid wages for insured work totaling ~~$250~~ eight times the claimant's weekly benefit amount from the claimant's previous benefit year during or subsequent to the previous benefit year.

ITEM 19. Amend subrule 24.35(1) as follows:

24.35(1) Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

a. If transmitted via the United States ~~postal service~~ Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

b. If transmitted ~~by any means other than the United States postal service on the date it is received by the division~~ via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

c. If transmitted by any means other than those outlined in paragraphs 24.35(1)*"a"* and *"b,"* on the date it is received by the division.

ITEM 20. Amend subrule 24.38(3) as follows:

24.38(3) The claimant will be told that if there was a previous election to file a combined wage claim, the claimant may withdraw the combined wage claim any time, up to the date the paying state's monetary determination becomes final. However, if the claimant withdraws a combined wage claim and benefits have been paid, the claimant will be required to repay any such benefits. This repayment may be done electronically, by cash, by check, by money order, or by an authorization to the state(s) from which such claimant next claims benefits to reimburse the combined wage paying state for any benefits which said claimant will be paid.

ITEM 21. Amend subrule 24.39(2) as follows:

24.39(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work except if the hours of the training are outside the regular hours worked in the base period employment. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

ITEM 22. Amend rule **871—25.1(96)**, definition of "Fact-finding interview," as follows:

"Fact-finding interview" means a ~~face-to-face~~ discussion between a claimant or an employer and an investigator for the purpose of obtaining from the claimant or employer a statement containing information on a specific eligibility or disqualification issue.

ITEM 23. Rescind the definition of "Internal audit" in rule **871—25.1(96)**.

ITEM 24. Amend paragraph **25.3(1)"i"** as follows:

i. Validity of alien registration numbers through a cross-check with ~~Immigration and Naturalization Service~~ U.S. Citizenship and Immigration Services. If an alien has falsely claimed to be a U.S. citizen or used a false alien registration card in order to receive benefits, prosecution cases will be prepared when appropriate. Refer to rule 871—24.60(96) for the definition of alien.

ITEM 25. Amend subrule 25.5(3) as follows:

25.5(3) The ~~investigation~~ investigations and recovery ~~bureau~~ unit may seek the assistance and expertise of the ~~field auditors in investigating suspected cases of employing unit fraud~~ tax bureau staff.

ITEM 26. Amend subrule 25.7(1) as follows:

25.7(1) ~~A determination that a claimant,~~ Determination by reason of the claimant's own fault, employer's fault, agency fault, or fraud as provided in Iowa Code section 96.16, that the claimant has received benefits to which such claimant was not entitled shall be made by the ~~investigation~~ investigations and recovery ~~bureau~~ unit on the basis of such facts as it may obtain.

ITEM 27. Amend subrule 25.8(1), introductory paragraph, as follows:

25.8(1) *Good faith overpayment.* If an individual has acted in good faith in claiming benefits for any week and it is later determined that the individual is not entitled to receive the benefits, the department shall ~~have the right to~~ recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment. The department shall mail the overpayment decision to the claimant's last-known address. Once the overpayment amount has been established, an overpayment schedule shall be set up to leave a proper audit trail even if the claimant pays to the department a sum equal to the overpayment.

ARC 3078C

BANKING DIVISION[187]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3, 536.21, and 536A.28, the Iowa Division of Banking (IDOB) hereby rescinds Chapter 15, "Regulated Loans," and Chapter 16, "Industrial Loans," Iowa Administrative Code, and adopts new Chapters 15 and 16 with the same titles.

This rule making reflects the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." New Chapters 15 and 16 are intended to eliminate outdated requirements and to modernize the format and structure of the rules in order to better conform to other rules relating to regulated nondepository entities. The reorganized chapters otherwise update the rules to reflect current administrative practices for licensees under Iowa Code chapters 536 and 536A, specifically practices related to applications, renewals, and record keeping. Reorganizing the chapters in this manner will make the rules easier to understand, thereby making it easier for licensees and applicants for licensure to comply with the requirements.

New Chapter 15 also revises the interest rate brackets for lenders licensed under Iowa Code chapter 536. Previously, the maximum interest rates such lenders could charge was 36 percent APR on any part of an unpaid balance not exceeding $1,000, 24 percent APR on any part of an unpaid balance exceeding $1,000 but not exceeding $2,800, and 18 percent APR on any part of an unpaid balance exceeding $2,800 but not exceeding $10,000. The new chapter permits lenders licensed under Iowa Code chapter 536 to charge an interest rate of 36 percent APR on any part of an unpaid balance not exceeding $3,000, 24 percent APR on any part of an unpaid balance exceeding $3,000 but not exceeding $8,400, and 18 percent APR on any part of an unpaid balance exceeding $8,400 but not exceeding $10,000.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2994C** on March 29, 2017. A public hearing was held on April 19, 2017. Public comments were received and considered and are described below.

One Main Financial and Town Financial submitted comments in support of the proposed new Chapter 15. The American Financial Services Organization also commented in support of the proposed new Chapter 15. These commenters indicated that the revised interest rate brackets for lenders licensed under Iowa Code chapter 536 will enable such licensees to make more supervised loans to Iowa borrowers, thereby making credit more available to Iowans as directed in Iowa Code section 536.13(1)"b."

Encore Capital (Encore) submitted a comment suggesting that the IDOB eliminate or revise proposed subrule 15.13(4) so as to permit regulated loan companies licensed under Iowa Code chapter 536 to establish branches outside the United States. Encore contended that prohibiting branches overseas would reduce convenience for Iowa borrowers, diminish Encore's ability to offer flexible repayment options and consumer discounts, and potentially reduce the availability of affordable credit to Iowans because of the increased difficulty lenders would encounter when seeking to sell debt to debt collectors such as Encore. After careful consideration, the IDOB has concluded that it is appropriate to retain this prohibition. The Iowa Regulated Loan Act (the Act), Iowa Code section 536.29, mandates that the Superintendent of Banking enforce the Iowa Consumer Credit Code (ICCC) with respect to entities holding regulated loan licenses. Iowa Code section 536.10 empowers the Superintendent to conduct examinations of licensees in order to ensure compliance with both the Act and the ICCC. The Superintendent and the IDOB take these statutory responsibilities seriously, but it would be impractical for the IDOB to examine licensees located outside the United States. The IDOB notes that a similar prohibition applies to licensed mortgage bankers, who are prohibited under Iowa Code section 535B.4(9) from establishing branches overseas. The IDOB has concluded that the tangible benefits to Iowa borrowers from prohibiting overseas branches under subrule 15.13(4) outweigh the alleged negative effects of this prohibition. The IDOB therefore declined to adopt this suggestion.

The adopted rules are identical to those published under Notice.

These rules are subject to waiver or variance pursuant to 187—Chapter 12.

The Iowa Division of Banking adopted these rules on May 4, 2017.

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that these rules should not have a negative effect on jobs in Iowa.

These rules are intended to implement Iowa Code chapters 17A, 536, and 536A.

These rules will become effective July 1, 2017.

The following amendments are adopted.

ITEM 1. Rescind 187—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15
REGULATED LOANS

187—15.1(17A,536) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 536 shall apply. In addition, unless the context otherwise requires:

"Business of making regulated loans" means making ten or more loans of money or other forms of credit in a calendar year for which a license is required under Iowa Code section 536.1, advertising the availability of such loans, or directly undertaking the collection of payments due on such loans or otherwise enforcing rights against borrowers who have entered into regulated loans.

"Nationwide multistate licensing system" or *"NMLS"* means a multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of nondepository financial institutions.

"Regulated loan" means a loan made by a licensee acting under the terms of the Iowa regulated loan Act. A regulated loan qualifies as a consumer loan subject to the Iowa Consumer Credit Code if the borrower is a person other than an organization; the debt is incurred for personal, family, or household use; and the amount financed is below the statutory threshold.

187—15.2(17A,536) Utilization of NMLS.

15.2(1) All application and licensing information shall be submitted through the NMLS including but not limited to the following: original application information; changes in application information; license renewal information; changes in name, location, and control; and notices of significant events.

15.2(2) The applicant or licensee shall pay any fees required by NMLS including but not limited to the following: initial set-up fee and annual processing fees, background check fees, and credit background check fees.

187—15.3(17A,536) Application for license.

15.3(1) An application for a license to operate a regulated loan business in Iowa shall be submitted to the superintendent, on the form provided and with the information requested, through the NMLS. The superintendent may consider an application withdrawn if it does not contain all of the information required and the missing information is not submitted to the superintendent within 30 days after the superintendent requests the missing information. The applicant may also request that the application be withdrawn at any time before the superintendent has decided to grant or deny the application.

15.3(2) Each officer, director, and individual who has control of an applicant must provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation.

15.3(3) The applicant must submit the application fee and the initial license fee specified in Iowa Code section 536.2. The superintendent shall refund the initial license fee if the application is denied, but the application fee is not subject to refund. The applicant shall also pay any additional fees required

by the NMLS including but not limited to the following: system processing fees, background check fees, and credit background check fees.

15.3(4) If any information material to the application changes after the applicant files the initial application, the applicant shall provide updated information to the superintendent within 10 days of the change. When such a material change in information has occurred, the superintendent may deny an application if the applicant fails to provide updated information within the prescribed time frame.

15.3(5) An applicant for a regulated loan company license must file with the superintendent a bond complying with the provisions of Iowa Code section 536.3. For applicants or licensees who do not make, arrange, broker, process, or underwrite any residential mortgage loans, as defined in Iowa Code section 535D.3(13), the bond shall be in the amount of $25,000. For applicants or licensees who make, broker, process, or underwrite residential mortgage loans, as defined in Iowa Code section 535D.3(13), the bond amount required to be filed and maintained shall be set and adjusted annually by March 31 using the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, and underwritten, as the case may be, by the applicant or licensee during the preceding calendar year:

Loans	Bond Amount
$0 – $5,000,000	$25,000
$5,000,001 – $20,000,000	$50,000
$20,000,001 – $50,000,000	$75,000
$50,000,001 – $100,000,000	$100,000
Over $100,000,000	$150,000

15.3(6) Licenses expire on the next December 31 after they are issued, but licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2017, would not expire until December 31, 2018.

187—15.4(17A,536) Grounds for approval or denial.

15.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code section 536.4.

15.4(2) The following may be considered evidence that the business of the applicant may not be operated lawfully and honestly within the purposes of Iowa Code chapter 536 and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or has pleaded guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering.

187—15.5(17A,536) Renewal of license.

15.5(1) A licensee must renew a license before the expiration date of the license. A licensee who fails to renew a license before the expiration date is not authorized to make regulated loans in Iowa after the expiration date.

15.5(2) An application to renew a license shall be submitted to the superintendent, on the form provided and with the information requested, through the NMLS by December 1 of the year of expiration. For example, for a license that will expire on December 31, 2017, an application for renewal shall be submitted by December 1, 2017. All requested information, including any material change to information contained in the original application, shall be provided to the superintendent.

15.5(3) The superintendent shall grant an application to renew a license if:

a. The licensee submits the application and the appropriate renewal fee by December 1 or the licensee submits the application after December 1 but before January 1 and pays the appropriate renewal fee and the appropriate late fee;

b. The application is fully completed and includes all necessary information; and

c. The application does not reveal grounds to deny a license.

15.5(4) It is within the discretion of the superintendent to reject for processing a renewal application submitted after December 31 or to treat such an application as an application for a new license. A licensee who fails to renew a license before the expiration date is not authorized to make regulated loans in Iowa after the expiration date.

187—15.6(17A,536) Changes in the licensee's name, location, or control; fees.

15.6(1) A licensee wishing to change the name or location of a regulated loan business shall notify the superintendent through the NMLS at least 30 days prior to the effective date of the requested change. The notice shall include proof that the licensee has either obtained a new bond or amended the existing mandatory bond to reflect the new name or location. The licensee shall submit the appropriate fee in conjunction with the notice.

15.6(2) When a change of control of a licensee is proposed, the party that will assume control of the licensee shall give notice to the superintendent through the NMLS, at least 60 days before the proposed change will take effect. Change of control is defined in Iowa Code section 536.7A. The party that will assume control of the licensee shall furnish the superintendent through the NMLS with the same information required of initial applicants for a license, along with the appropriate fee. The party that will assume control may be required to provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. The superintendent shall approve or deny the request in accordance with the provisions of Iowa Code section 536.4 and rule 187—15.4(17A,536).

15.6(3) Failure to notify the administrator within the prescribed time as required by this rule may subject the licensee to disciplinary action.

187—15.7(17A,536) Notice of significant events. A licensee shall notify the administrator immediately and in writing within 10 days of the occurrence of any of the following events.

15.7(1) The licensee or any of the licensee's officers, directors, principal stockholders, or affiliates file for bankruptcy protection or commence reorganization proceedings.

15.7(2) A prosecuting authority files criminal charges against the licensee or any of a licensee's officers, directors, principal stockholders, or affiliates.

15.7(3) Another state or jurisdiction institutes license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

15.7(4) The attorney general of Iowa, the Federal Trade Commission, or the enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce the consumer protection laws against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

187—15.8(17A,536) Administrative fees.

15.8(1) *Examination or investigation fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division, as described in Iowa Code section 536.10(3).

15.8(2) *Late fees for failing to respond.* In the process of administering Iowa Code chapter 536, the superintendent may require a person to provide responses to formal orders, examinations, or complaint inquiries. If a person fails to respond within 30 days of the request, the superintendent may assess a penalty of $10 per day after the initial 30 days.

15.8(3) *NMLS system processing fees.* In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the NMLS attributed to the licensee's record in the NMLS including but not limited to the initial set-up fee, an annual processing fee, and a loan sponsorship transfer fee.

187—15.9(17A,536) Licensee records.

15.9(1) *General records requirements.* A licensee must keep records that allow the superintendent to determine the licensee's compliance with relevant statutes and regulations.

a. The licensee may keep the records as a hard copy or in an electronic equivalent.

b. The licensee shall keep all records for at least 24 months from the date of the final transaction with the borrower.

c. The licensee shall maintain all books and records in good order and shall produce books and records for the superintendent upon request. Failure to produce such books and records within 30 days of the superintendent's request may be grounds for disciplinary action against the licensee.

d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders its license. The owners and directors of the licensee are responsible for ensuring that this requirement is met.

15.9(2) *Required records.* A licensee shall keep, at its principal place of business, a loan register, an account ledger, an account ledger control, a loan file, an index, and a disbursement voucher.

15.9(3) *Loan register.* The loan register shall include the following information for every loan that is made: the account number, the date of the transaction, the name of the borrower, and the amount financed. The register shall be kept chronologically in the order the loans closed.

15.9(4) *Account ledger.*

a. An individual account ledger shall be kept for each account and shall show at least the loan number, name and address of the borrower, date of loan, date of first payment, date of final payment, terms of repayment including maturity date, amount financed, total of payments, face amount of note if different from amount financed or total payments, cash advanced to borrower, cash advanced to pay balance of previous regulated loan, interest or discount charge, service charge, attorney fee, fee paid or to be paid to a public official for recording or filing a mortgage or for satisfying a judgment or lien on any real or personal property securing the loan, nature of security, type and cost of each credit insurance policy and any other insurance policy with each premium stated separately, and name of each endorser, comaker or surety.

b. All payments shall be posted on the account ledger as of the date received. No erasures whatsoever may be made in the payment section of any account ledger. In case of error, corrections to the transaction history in the account ledger shall be made by corrective entry and not by erasure. The entries on the account ledger shall correspond with the receipts given to the borrower.

c. If payment is made in any way other than in the ordinary course of business, the method of payment shall be so designated on the account ledger; for example, payment by sale of security, insurance claim or endorser. When a death claim is filed, the exact date of death is to be recorded on the account ledger.

d. The account ledger for an interest-bearing loan shall show the amount of the loan if different from the amount financed, the amount and date of each payment received, the allocation of the payment to principal and interest, and the remaining principal balance. If a portion of the interest earned is not paid at the time payment is made, the account ledger for an interest-bearing loan must show either the date to which interest is paid or the amount of interest then due but unpaid.

e. The account ledger for a precomputed loan shall show the actual amount of the loan excluding the precomputed interest, the amount of the precomputed interest and the face amount of the note including interest, the amount and date of each payment applied to the note, the unpaid balance of the note after application of such payment and the type and amount of any additional charges collected or assessed. If a deferment charge is collected in whole or in part, the account ledger shall indicate any uncollected portion of the deferment charge, the particular installment deferred, the number of times deferred, plus the date of the final installment.

f. When any loan is prepaid in full, either by cash or renewal, the account ledger must show the date of prepayment, the amount paid to discharge the loan, the amount of the interest rebate, and any deduction from the rebate for previously earned but uncollected charges, and refunds of the unearned premiums of each credit insurance policy or other insurance policy. Each insurance refund shall be separately recorded on the account ledger.

g. Account ledgers relating to each type of business operation must be filed in separate groups. Paid-in-full and renewed account ledgers must also be filed in a similar manner and must be retained from one banking division examination to the next. After the examination, the account ledgers may be filed in a permanent file.

15.9(5) *Account ledger control.* A record showing the total number of accounts and total amount receivable for each type of business shall be maintained in the licensed office. This record shall be posted either daily or weekly.

15.9(6) *Loan file.* A separate file shall be maintained for each borrower in the office where the loan is outstanding. Such file shall contain the note, security agreement, wage assignment, and all other evidence of indebtedness or security pertaining to the loan except when the note is kept in a separate promissory note file or when said papers are in custody of a court or an agent for collection or are hypothecated. When a borrower is also a comaker, guarantor or endorser on another loan, the file of such borrower shall be cross-referenced to the other, unless such cross-referencing is included on the alphabetical record required by subrule 15.9(7) or on the individual account ledger required by subrule 15.9(4). All instruments taken in connection with a loan and signed by a borrower must bear the loan number.

15.9(7) *Index.* An alphabetical record shall be maintained and show the name of each borrower, endorser, comaker, or surety who is currently indebted to the licensee, together with sufficient information to locate the account ledger.

15.9(8) *Disbursement voucher.* Licensees shall use, in conjunction with each loan, a disbursement voucher or equivalent document showing a detailed itemization of the distribution of the loan proceeds.

15.9(9) *Denial file.* For each application the licensee denies, the licensee shall retain a copy of the application and a copy of the adverse action notice. The licensee may maintain this information in one file in either alphabetical or chronological order.

15.9(10) *General business records.* A licensee must keep the following general business records for at least 36 months:

a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the regulated loan business of the licensee.

b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each loan applicant, including a record of the date and amount of all such payments actually made by each loan applicant.

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the regulated loan business.

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 536.

e. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the superintendent or any other regulatory or supervisory authority.

f. Copies of all advertisements and solicitations concerning regulated loans directed at Iowa residents, including advertisements and solicitations on the Internet or by other electronic means, in the format (e.g., recorded sound, video, print) in which the advertisements and solicitations were published or distributed. An advertisement shall clearly show the licensee's unique NMLS identification number.

15.9(11) *Disposal of records.* If a licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that safeguards any identification information, as defined in Iowa Code section 715A.8(1)*"a."* The owners and directors of licensees and former licensees are responsible for ensuring that this requirement is met.

187—15.10(17A,536) Complaints and investigations.

15.10(1) The superintendent may, at any time and as often as the superintendent deems necessary, investigate a licensee and examine the licensee's books, accounts, records, and files.

15.10(2) The superintendent may investigate complaints about, or alleged violations by, any licensee.

15.10(3) The following shall constitute a complaint or alleged violation:

a. A written complaint received from a consumer, member of the public, employee, business affiliate, or other governmental agency.

b. Notice to the superintendent from any source that the licensee has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the superintendent from any source that an individual with control of the licensee has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other similar offense, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction.

187—15.11(17A,536) Disciplinary action.

15.11(1) The superintendent has authority pursuant to Iowa Code chapters 536 and 17A to impose discipline for violations of Iowa Code chapter 536 and the rules promulgated thereunder.

15.11(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in Iowa Code section 536.9(2) when the superintendent makes any of the findings in Iowa Code section 536.9(1) or when the superintendent finds any of the following:

a. The licensee has abandoned its place of business for 60 or more days.

b. The licensee fails to fully cooperate with an examination or investigation, including failing to respond to an inquiry from the superintendent within 30 days of the date the superintendent mails a written communication directed to the licensee's last-known address on file with the superintendent.

c. The licensee has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the superintendent.

d. The licensee continues to operate a regulated loan business without an active and current license.

e. The licensee fails to notify the superintendent within 10 days of the occurrence of one of the significant events set forth in rule 187—15.7(17A,536).

f. The licensee fails to notify the superintendent of a change in control, name, or principal place of business.

g. The licensee operates a regulated loan business in the same location as another business without the superintendent's written approval.

h. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's license, registration, or authorization to engage in the business of making loans under the other state's or jurisdiction's law.

i. The licensee fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.

15.11(3) The superintendent shall not refund the license fee, in whole or in part, of a license that has been suspended, revoked, or surrendered.

187—15.12(17A,536) Annual report. Licensees must file with the superintendent an annual report, on forms prescribed by the superintendent, on or before April 15. The information contained in the annual report shall be confidential, and the superintendent may publish the information only in composite form. The superintendent may assess a late fee of $10 for each day the annual report is delinquent.

187—15.13(17A,536) Restrictions on making regulated loans. A licensee shall adhere to the following restrictions related to making regulated loans.

15.13(1) *Jurisdiction.* A licensee shall have authority to make and complete loans by mail, or by comparable electronic means, from the lender's licensed office. However, all loans made to Iowa residents pursuant to Iowa Code chapters 536 and 537 must comply with all applicable Iowa laws.

15.13(2) *Default charge.* Default charges are not to be collected if payment is made by a credit accident and health insurance claim.

15.13(3) *Interest rate.* Pursuant to the power granted to the superintendent under Iowa Code sections 536.13(1)*"b"* and 536.13(2), the maximum rate of interest that may be charged beginning July 1, 2017, and until such time as a different rate is fixed by the superintendent, is 36 percent per annum on any part of the unpaid balance not exceeding $3,000 and 24 percent per annum on any part of the unpaid balance in excess of $3,000, but not exceeding $8,400 and 18 percent per annum on any part of the unpaid balance in excess of $8,400, but not exceeding $10,000.

15.13(4) *Branch locations.* Licensees may not establish branch locations outside of the United States.

These rules are intended to implement Iowa Code chapters 17A and 536.

ITEM 2. Rescind 187—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16
INDUSTRIAL LOANS

187—16.1(17A,536A) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 536A shall apply. In addition, unless the context otherwise requires:

"Business of making industrial loans" means making ten or more loans of money or other forms of credit in a calendar year for which a license is required under Iowa Code section 536A.3, advertising the availability of such loans, or directly undertaking the collection of payments due on such loans or otherwise enforcing rights against borrowers who have entered into industrial loans.

"Industrial loan" means a loan made by a person who is a licensee acting under the terms of the Iowa industrial loan law. An industrial loan qualifies as a consumer loan subject to the Iowa Consumer Credit Code if the borrower is a person other than an organization; the debt is incurred for personal, family, or household use; and the amount financed is below the statutory threshold.

"Industrial loan business" means the business of operating an industrial loan company as defined in Iowa Code section 536A.2(1).

"Nationwide multistate licensing system" or *"NMLS"* means a multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of nondepository financial institutions.

187—16.2(17A,536A) Utilization of NMLS.

16.2(1) All application and licensing information shall be submitted through the NMLS including but not limited to the following: original application information; changes in application information; license renewal information; changes in name, location, and control; and notices of significant events.

16.2(2) The applicant or licensee shall pay any fees required by NMLS including but not limited to the following: initial set-up fee and annual processing fees, background check fees, and credit background check fees.

187—16.3(17A,536A) Application for license.

16.3(1) An application for a license to engage in the business of operating an industrial loan company in Iowa shall be submitted to the superintendent, on the form provided and with the information requested, through NMLS. The superintendent may consider an application withdrawn if it does not contain all of the information required and the missing information is not submitted to the superintendent within 30 days after the superintendent requests the missing information. The applicant may also request that the application be withdrawn at any time before the superintendent has decided to grant or deny the application.

16.3(2) Each officer, director, and individual who has control of an applicant must provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation.

16.3(3) The applicant must submit the application fee and the initial license fee specified in Iowa Code section 536A.7(2). The superintendent shall refund the initial license fee if the application is denied, but the application fee is not subject to refund.

16.3(4) If any information material to the application changes after the applicant files the initial application, the applicant shall provide updated information to the superintendent in writing within 10 days of the change. When such a material change in information has occurred, the superintendent may deny an application if the applicant fails to provide updated information within the prescribed time frame.

16.3(5) An applicant for an industrial loan company license must file with the superintendent a bond complying with the provisions of Iowa Code section 536A.7A. For applicants or licensees who do not make, arrange, broker, process, or underwrite any residential mortgage loans, as defined in Iowa Code section 535D.3(13), the bond shall be in the amount of $25,000. For applicants or licensees who make, broker, process, or underwrite residential mortgage loans, as defined in Iowa Code section 535D.3(13), the bond amount required to be filed and maintained shall be set and adjusted annually by March 31 using the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, and underwritten, as the case may be, by the applicant or licensee during the preceding calendar year:

Loans	Bond Amount
$0 – $5,000,000	$25,000
$5,000,001 – $20,000,000	$50,000
$20,000,001 – $50,000,000	$75,000
$50,000,001 – $100,000,000	$100,000
Over $100,000,000	$150,000

16.3(6) Licenses expire on the next December 31 after they are issued, but licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2017, would not expire until December 31, 2018.

187—16.4(17A,536A) Grounds for approval or denial.

16.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code sections 536A.10 and 536A.11.

16.4(2) The following may be considered evidence that the business of the applicant may not be operated lawfully and honestly within the purposes of Iowa Code chapter 536A and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or has pleaded guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering.

187—16.5(17A,536A) Renewal of license.

16.5(1) To remain authorized to operate an industrial loan company, a licensee must renew a license before the expiration date of the license. A licensee who fails to renew a license before the expiration date is not authorized to make industrial loans in Iowa after the expiration date.

16.5(2) An application to renew a license shall be submitted to the superintendent, on the form provided and with the information requested, through the NMLS by December 1 of the year of expiration. For example, for a license that will expire on December 31, 2017, an application for renewal shall be submitted by December 1, 2017. All requested information, including any material change to information contained in the original application, shall be provided to the superintendent.

16.5(3) The superintendent shall grant an application to renew a license if:

a. The licensee submits the application and the appropriate renewal fee by December 1 or the licensee submits the application after December 1 but before January 1 and pays the appropriate renewal fee and the appropriate late fee;

b. The application is fully completed and includes all necessary information; and

c. The application does not reveal grounds to deny a license.

16.5(4) It is within the discretion of the superintendent to reject for processing a renewal application submitted after December 31, or to treat such an application as an application for a new license. A licensee who fails to renew a license before the expiration date is not authorized to engage in the business of making industrial loans in Iowa after the expiration date.

187—16.6(17A,536A) Changes in the licensee's name, location, or control.

16.6(1) A licensee wishing to change the name or location of an industrial loan business shall notify the superintendent through the NMLS at least 30 days prior to the effective date of the change. The notice shall include proof that the licensee has either obtained a new bond or amended the existing mandatory bond to reflect the new name or location. The licensee shall submit the appropriate fee in conjunction with the notice.

16.6(2) When a change of control of a licensee is proposed, the party that will assume control of the licensee shall submit an application for certificate of approval of the proposed change of control to the superintendent, on the form provided and with the information requested, through the NMLS at least 60 days before the proposed change will take effect. Change of control is defined in Iowa Code section 536A.12(4). The party that will assume control of the licensee shall furnish the superintendent with the same information required of initial applicants for a license, along with the appropriate fee. The party that will assume control may be required to provide fingerprints, authorize a fingerprint background check through the NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. The superintendent shall approve or deny the request in accordance with the provisions of Iowa Code sections 536A.10 and 536A.11 and rule 187—16.4(17A,536A).

16.6(3) Failure to notify the administrator within the prescribed time as required by this rule may subject the licensee to disciplinary action.

187—16.7(17A,536A) Notice of significant events. A licensee shall notify the administrator immediately and in writing within 10 days of the occurrence of any of the following events.

16.7(1) The licensee or any of the licensee's officers, directors, principal stockholders, or affiliates file for bankruptcy protection.

16.7(2) A prosecuting authority files criminal charges against the licensee or any of a licensee's officers, directors, principal stockholders, or affiliates.

16.7(3) Another state or jurisdiction institutes license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

16.7(4) The attorney general of Iowa, the Federal Trade Commission, or the enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce the consumer protection laws against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

187—16.8(17A,536A) Administrative fees.

16.8(1) *Examination or investigation fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division, as described in Iowa Code section 536A.15(4).

16.8(2) *Late fees for failing to respond.* In the process of administering this chapter, the superintendent may require a person to provide responses to formal orders, examinations, or complaint inquiries. If a person fails to respond within 30 days of the request, the superintendent may assess a penalty of $10 per day after the initial 30 days.

16.8(3) *NMLS system processing fees.* In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the NMLS attributed to the licensee's record in the NMLS including but not limited to the initial set-up fee, an annual processing fee, and a loan sponsorship transfer fee.

187—16.9(17A,536A) Licensee records.

16.9(1) *General records requirements.* A licensee must keep records that allow the superintendent to determine the licensee's compliance with relevant statutes and regulations.

a. The licensee may keep the records as a hard copy or in an electronic equivalent.

b. The licensee shall keep records for at least 24 months from the date of the final transaction with the borrower.

c. The licensee shall maintain all books and records in good order and shall produce books and records for the superintendent upon request. The superintendent or the superintendent's duly appointed representative shall have the right to examine and investigate the books, accounts, and records wherever situated of all businesses authorized or conducted by a licensee licensed pursuant to Iowa Code chapter 536A. All books, accounts and records pertaining to businesses conducted pursuant to such licenses shall be made readily available to the examiners who may investigate without prior notice. Failure to produce such books and records within 30 days of the superintendent's request may be grounds for disciplinary action against the licensee.

d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders its license. The owners and directors of the licensee are responsible for ensuring that this requirement is met.

16.9(2) *Required records.* A licensee shall keep, at its principal place of business, a loan register, account ledgers, an account ledger control, a loan file, an index, and a disbursement voucher.

16.9(3) *Loan register.*

a. The loan register shall contain the original entry and shall show for every loan the loan number, date of loan, name of borrower, nature of security, and amount of note.

b. The loan register shall be kept chronologically in the order the loans are made.

16.9(4) *Account ledger.*

a. An individual account ledger shall be kept for each account and shall show at least the loan number, name and address of the borrower, date of loan, date of first payment, date of final payment, terms of repayment including maturity date, amount financed, total of payments, face amount of note if different from amount financed or total of payments, cash advanced to borrower, cash advanced to pay balance of previous industrial loan, interest or discount charge, service charge, attorney fee, fee paid or to be paid to a public official for recording or filing a mortgage or for satisfying a judgment or lien on any real or personal property securing the loan, nature of security, type and cost of each credit insurance policy, and type and cost of any other insurance policy.

b. All payments shall be credited upon the account ledger as of the date they are received. No erasures whatsoever may be made in the payment section of any account ledger. In case of error, corrections to the transaction history in the account ledger shall be made by corrective entry and not by erasure. The entries on the account ledger shall correspond with the receipts given to the borrower.

c. If payment is made in any way other than in the ordinary course of business, the method of payment shall be so designated on the account ledger; for example, if payment is made through the proceeds of an insurance claim or the sale of security, it shall be so designated. When a death claim is filed, the exact date of death is to be recorded on the account ledger.

d. The account ledger for an interest-bearing loan shall show the amount of the loan if different from the amount financed, the amount and date of each payment received, the allocation of the payment to principal and interest, and the remaining principal balance. If a portion of the interest earned is not paid at the time payment is made, the account ledger for an interest-bearing loan must show either the date to which interest is paid or the amount of interest then due but unpaid.

e. The account ledger for a precomputed loan shall show the actual amount of the loan excluding the precomputed interest, the amount of the precomputed interest and the face amount of the note

including interest, the amount and date of each payment applied to the note, the unpaid balance of the note after application of such payment and the type and amount of any additional charges collected or assessed. If a deferment charge is collected in whole or in part, the account ledger shall indicate any uncollected portion of the deferment charge, the particular installment deferred, the number of times deferred, plus the date of the final installment.

f. When any loan is prepaid in full, either by cash or renewal, the account ledger must show the date of prepayment, the amount paid to discharge the loan, the amount of the interest rebate, and any deduction from the rebate for previously earned but uncollected charges, and refunds of the unearned premiums of each credit insurance policy or other insurance policy. Each insurance refund shall be separately recorded on the account ledger.

g. Account ledgers relating to each type of business operation must be filed in separate groups. Paid-in-full or renewed account ledgers must also be filed in a similar manner and must be retained as a separate group from one banking division examination to the next. After the examination, these account ledgers may be filed in a permanent file.

16.9(5) *Account ledger control.* A record showing the total number of accounts and amount receivable for each type of business conducted shall be maintained in the licensed office. This record shall be posted either daily or weekly.

16.9(6) *Loan file.* A separate file shall be maintained for each borrower or loan account. Such file shall contain the promissory note, security agreement, wage assignment, and all other evidence of indebtedness or security pertaining to the loan except when the promissory note is kept in a separate promissory note file. Copies of the note and security agreement shall be substituted for the original documents if the loan has been sold, pledged or assigned as collateral security or if the original papers are in the custody of a court or agent for collection. If the promissory notes are not kept in the file of original papers and have not been sold, pledged or assigned as collateral security or placed in the custody of a court or agent for collection, then they must be kept in a promissory note file. When a borrower is also a comaker, guarantor, or endorser on another loan, the file of such borrower shall be cross-referenced to the other, unless such cross-referencing is included on the alphabetical record required by subrule 16.9(7) or the individual account ledger required by subrule 16.9(4). All instruments taken in connection with a loan and signed by a borrower must bear the loan number. No instrument or part thereof shall be left blank for completion after the borrower(s) has signed the instrument.

16.9(7) *Index.* An alphabetical index shall be maintained for each borrower, endorser, comaker, surety or other party currently indebted to the licensee or to any other business operated within the same office, room, suite or place of business. The index shall show the following information: the name of the obligor, the account number assigned to the obligor's indebtedness, the type of indebtedness (regulated loan, industrial loan, insurance, or any receivable), information showing whether the obligor is other than a borrower and sufficient information to locate all account ledgers.

16.9(8) *Disbursement voucher.* Licensees shall use, in conjunction with each loan, a disbursement voucher or equivalent document showing a detailed itemization of the distribution of the loan proceeds.

16.9(9) *Denial file.* For each application the licensee denies, the licensee shall retain a copy of the application and a copy of the adverse action notice. The licensee may maintain this information in one file in either alphabetical or chronological order.

16.9(10) *General business records.* A licensee must keep the following general business records for at least 36 months:

a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the industrial loan business of the licensee.

b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each loan applicant, including a record of the date and amount of all such payments actually made by each loan applicant.

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the industrial loan business.

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 536A.

e. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the superintendent or any other regulatory or supervisory authority.

f. Copies of all advertisements and solicitations concerning industrial loan services directed at Iowa residents, including advertisements and solicitations on the Internet or by other electronic means, in the format (e.g., recorded sound, video, print) in which the advertisements and solicitations were published or distributed.

16.9(11) *Disposal of records.* If a licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that safeguards any identification information, as defined in Iowa Code section 715A.8(1)*"a."* The owners and directors of licensees and former licensees are responsible for ensuring that this requirement is met.

187—16.10(17A,536A) Complaints and investigations.

16.10(1) The superintendent may, at any time and as often as the superintendent deems necessary, investigate a licensee and examine the licensee's books, accounts, records, and files.

16.10(2) The superintendent may investigate complaints about, or alleged violations by, any licensee.

16.10(3) The following shall constitute a complaint or alleged violation:

a. A written complaint received from a consumer, member of the public, employee business affiliate, or other governmental agency.

b. Notice to the superintendent from any source that the licensee has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the superintendent from any source that an individual with control of the licensee has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other similar offense, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction.

187—16.11(17A,536A) Disciplinary action.

16.11(1) The superintendent has authority pursuant to Iowa Code chapters 536A and 17A to impose discipline for violations of Iowa Code chapter 536A and the rules promulgated thereunder.

16.11(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in Iowa Code section 536A.18(2) when the superintendent finds any of the following:

a. The licensee has abandoned its place of business for 60 or more days.

b. The licensee fails to fully cooperate with an examination or investigation, including failing to respond to an inquiry from the superintendent within 30 days of the date the superintendent mails a written communication directed to the licensee's last-known address on file with the superintendent.

c. The licensee has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the superintendent.

d. The licensee continues to operate an industrial loan business without an active and current license.

e. The licensee fails to notify the superintendent within 10 days of the occurrence of one of the significant events set forth in rule 187—16.7(17A,536A).

f. The licensee fails to notify the superintendent of a change in control, name, or principal place of business.

g. The licensee operates an industrial loan business in the same location as another business without the superintendent's written approval.

h. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's license, registration, or authorization to engage in the business of making loans under the other state's or jurisdiction's law.

i. The licensee fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.

16.11(3) The superintendent shall not refund the license fee, in whole or in part, of a license that has been suspended, revoked, or surrendered.

187—16.12(17A,536A) Other requirements.

16.12(1) Annual report. Licensees must file with the superintendent an annual report, on forms prescribed by the superintendent, on or before April 15. The information contained in the annual report shall be confidential, and the superintendent may publish the information only in composite form. The superintendent may assess a late fee of $10 for each day the annual report is delinquent.

16.12(2) Reserved.

187—16.13(17A,536A) Restrictions on making industrial loans. A licensee shall adhere to the following restrictions related to making industrial loans.

16.13(1) *Jurisdiction.* A licensee shall have authority to make and complete loans by mail, or by comparable electronic means, from the lender's licensed office. However, all loans made to Iowa residents pursuant to Iowa Code chapters 536A and 537 must comply with all applicable Iowa laws.

16.13(2) *Default charge.* Default charges are not to be collected from a borrower if payment is made by a credit accident and health insurance claim.

16.13(3) *Branch locations.* Licensees may not establish branch locations outside of the United States.

These rules are intended to implement Iowa Code chapters 17A and 536A.

[Filed 5/4/17, effective 7/1/17]
[Published 5/24/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/17.

ARC 3079C

BANKING DIVISION[187]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 533D.3(7), the Iowa Division of Banking (IDOB) hereby adopts new Chapter 17, "Delayed Deposit Services," Iowa Administrative Code.

The new chapter establishes the procedures for an application for a delayed deposit services license; renewal of an existing delayed deposit services license; submission of required notices regarding changes in name, location, or control of a licensee; record-keeping requirements for licensees; and procedures for complaints, investigations, and disciplinary actions. The new chapter specifically instructs licensees and applicants regarding the requirements to use the nationwide multistate licensing system to apply for and maintain delayed deposit services licenses. The nationwide multistate licensing system makes the licensing process faster, easier, and more uniform for both licensees and the licensing staff who process applications and other submissions. In the interest of making state government more efficient and transparent, the structure of these rules is very similar to the structure of other rules applicable to nondepository financial institutions.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2992C** on March 29, 2017. A public hearing was held on April 19, 2017, and no public comments were received. The adopted rules are identical to those published under Notice.

These rules are subject to waiver or variance pursuant to 187—Chapter 12.

The Iowa Division of Banking adopted these rules on May 4, 2017.

No existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added. The IDOB has therefore concluded that the adopted rules should not have an impact on jobs in Iowa.

These rules are intended to implement Iowa Code chapters 17A and 533D.

These rules will become effective on July 1, 2017.

The following amendment is adopted.

Adopt the following **new** 187—Chapter 17:

CHAPTER 17
DELAYED DEPOSIT SERVICES

187—17.1(17A,533D) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 533D shall apply. In addition, unless the context otherwise requires:

"Delayed deposit transactions" means the activities of a "delayed deposit services business" as defined in Iowa Code section 533D.2(2). These transactions qualify as consumer loans subject to the Iowa Consumer Credit Code, Iowa Code chapter 537, if the borrower is a person other than an organization and the debt is incurred for personal, family, or household use.

"License application" means an application submitted to the superintendent for a license to operate as a delayed deposit services business in accordance with the provisions of Iowa Code chapter 533D.

"Maker" means a person who issues a check in order to enter into a delayed deposit transaction.

"Nationwide multistate licensing system" or *"NMLS"* means a multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and regulation of nondepository financial institutions.

187—17.2(17A,533D) Utilization of NMLS. All application and licensing information shall be submitted through the NMLS including but not limited to the following: original application information; changes in application information; license renewal information; changes in name, location, and control; and notices of significant events. The applicant or licensee shall pay any fees required by NMLS including but not limited to the following: system processing fees, background check fees, and credit background check fees.

187—17.3(17A,533D) Application for license.

17.3(1) An application for a license to operate a delayed deposit services business in Iowa shall be submitted to the superintendent on the form provided and with the information requested through the NMLS. The superintendent may consider an application withdrawn if it does not contain all of the information required and the missing information is not submitted to the superintendent within 30 days after the superintendent requests the missing information. The applicant may also request that the application be withdrawn at any time before the superintendent has decided to grant or deny the application.

17.3(2) Each officer, director and individual who has control of an applicant must provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation.

17.3(3) The applicant shall submit with the application an application fee of $100 and an initial license fee of $250. The superintendent shall refund the initial license fee if the application is denied, but the application fee is not subject to refund.

17.3(4) If any information material to the application changes after the applicant files the initial application, the applicant shall provide updated information to the superintendent within 10 days of the change. When such a material change in information has occurred, the superintendent may deny an application if the applicant fails to provide updated information within the prescribed time frame.

17.3(5) An applicant for a license to enter into delayed deposit transactions must file with the superintendent a $25,000 surety bond in compliance with the provisions of Iowa Code section 533D.3(3)*"b."*

17.3(6) Licenses expire on the next December 31 after they are issued, but licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2017, would not expire until December 31, 2018.

187—17.4(17A,533D) Grounds for approval or denial.

17.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code section 533D.3.

17.4(2) The following may be considered evidence that the business of the applicant may not be operated lawfully and honestly consistent with the purposes of Iowa Code chapter 533D and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or pled guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering.

187—17.5(17A,533D) Renewal of license.

17.5(1) To remain authorized to enter into delayed deposit transactions in Iowa, a licensee must renew a license before the expiration date of the license. A licensee who fails to renew a license before the expiration date is not authorized to enter into delayed deposit transactions after the expiration date.

17.5(2) An application to renew a license shall be submitted to the superintendent on the form provided and with the information requested through the NMLS by December 1 of the year of expiration. For example, for a license that will expire on December 31, 2017, an application for renewal shall be submitted by December 1, 2017. All requested information, including any material change to information contained in the original application, shall be provided to the superintendent.

17.5(3) The superintendent shall grant an application to renew a license if:

a. The licensee submits the application and the appropriate renewal fee by December 1, or the licensee submits the application after December 1 but before January 1 and pays the appropriate renewal fee and the appropriate late fee;

b. The application is fully completed and includes all necessary information; and

c. The application does not reveal grounds to deny a license.

17.5(4) It is within the discretion of the superintendent to reject for processing a renewal application submitted after December 31 or to treat such an application as an application for a new license. A licensee who fails to renew a license before the expiration date is not authorized to enter into delayed deposit transactions in Iowa after the expiration date.

187—17.6(17A,533D) Changes in the licensee's name, location, or control.

17.6(1) A licensee wishing to change the name or location of a delayed deposit services business shall notify the superintendent at least 30 days prior to the requested change. The request shall include proof that the licensee has either obtained a new bond or amended the existing bond to reflect the new name or location. The licensee shall submit a $25 fee per license in conjunction with the request. A licensee may not enter into delayed deposit transactions under a different name without providing such notice and submitting the required fee.

17.6(2) A licensee wishing to establish a branch office must submit the application to the superintendent on the form provided and with the information requested through the NMLS, along with a fee of $250. Licenses issued to branch offices are treated as independent licenses and are subject to the renewal requirements, fees, and procedures specified in rule 187—17.5(17A,533D).

17.6(3) When change of control of a licensee is proposed, the party that will assume control of the licensee shall give notice to the superintendent at least 60 days before the proposed change will take effect. Change of control is defined in Iowa Code section 533D.6. The party that will assume control of the licensee shall furnish the superintendent with the same information required of initial applicants for a license, along with a fee of $100. The party that will assume control may be required to provide

fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. The superintendent shall approve or deny the request in accordance with the provisions of Iowa Code section 533D.3.

17.6(4) Failure to notify the administrator within the prescribed time as required by this rule may subject the licensee to disciplinary action.

187—17.7 Reserved.

187—17.8(17A,533D) Administrative fees.

17.8(1) *Examination or investigation fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division, as described in Iowa Code section 533D.11(3).

17.8(2) *Late fees for failing to respond.* In the process of administering this chapter, the superintendent may require a person to provide responses to formal orders, examinations, or complaint inquiries. If a person fails to respond within 30 days of the request, the superintendent may assess a penalty of $10 per day after the initial 30 days.

17.8(3) *NMLS system processing fees.* In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the NMLS attributed to the licensee's record in the NMLS including but not limited to the initial set-up fee and annual processing fee.

187—17.9(17A,533D) Licensee records.

17.9(1) *General record requirements.* A licensee must keep records that allow the superintendent to determine the licensee's compliance with relevant statutes and regulations.

a. The licensee may keep the records as a hard copy or in an electronic equivalent.

b. The licensee shall keep records for at least 24 months from the date of the final transaction with the borrower.

c. The licensee shall maintain all books and records in good order and shall produce books and records for the superintendent upon request. Failure to produce such books and records within 30 days of the superintendent's request may be grounds for disciplinary action against the licensee.

d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders its license. The owners and directors of the licensee are responsible for ensuring that this requirement is met.

17.9(2) *Required records.* A licensee making or servicing delayed deposit transactions shall keep, at its principal place of business, a loan register, an account ledger, a loan file, an index, an application log, a denial file, and a disbursement voucher.

17.9(3) *Loan register.* The loan register shall include the following information for every loan that is made: the account number, the date of the transaction, the name of the borrower, the amount financed, and the amount of the borrower's check. The register shall be kept chronologically in the order the loans closed. A licensee may combine the loan register with the application log.

17.9(4) *Account ledger.* A delayed deposit services licensee shall maintain an account ledger for each borrower, which shall show:

a. The name and address of the borrower, the loan number, the loan date, the maturity date, the payment terms, the amount financed, and the total of payments.

b. A transaction history that lists all transactions with the borrower. Payments shall be posted to the account ledger effective the date payments were received. Payment entries shall show the date payment was received, the total amount of the payment, and a description of how the payment was applied to the borrower's account. Other transactions shall be fully described. Corrections to the transaction history shall be made by corrective entry and not by erasure.

17.9(5) *Loan file.* The loan file consists of the application, the loan agreement, notice pursuant to Iowa Code section 533D.9(2), and all required truth-in-lending disclosures for each loan.

17.9(6) *Index.* An alphabetical record shall be maintained and show the name of each borrower, endorser, comaker, or surety who is currently indebted to the licensee, together with sufficient information to locate the account ledger.

17.9(7) *Application log.* The application log is a chronological list of applications received. The application log shall include the name of the applicant, the date when the application was received, whether the loan was made or denied, and the date when the loan was made or denied if that date differs from the date when the licensee received the application. For approved applications, the application log shall show the date when the loan closed and the name of the borrower. For record-keeping purposes, an application is a prospective borrower's oral or written request for a licensee to extend credit that is made in accordance with the procedures established by the licensee for the type of credit requested.

17.9(8) *Denial file.* For each application the licensee denies, the licensee shall retain a copy of the application and a copy of the adverse action notice. The licensee may maintain this information in one file in either alphabetical or chronological order.

17.9(9) *Disbursement voucher.* Licensees shall use a disbursement voucher or equivalent document in conjunction with each loan showing a detailed itemization of the distribution of the loan proceeds.

17.9(10) *General business records.* A licensee must keep the following general business records for at least 36 months:

a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the delayed deposit services business of the licensee.

b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each loan applicant, including a record of the date and amount of all such payments actually made by each loan applicant.

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the delayed deposit services business.

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 533D.

e. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the superintendent or any other regulatory or supervisory authority.

f. Copies of all advertisements and solicitations concerning delayed deposit services directed at Iowa residents, including advertisements and solicitations on the Internet or by other electronic means, in the format (e.g., recorded sound, video, print) in which the advertisements and solicitations were published or distributed.

17.9(11) *Disposal of records.* If a licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that safeguards any identification information, as defined in Iowa Code section 715A.8(1)*"a."* The owners and directors of licensees and former licensees are responsible for ensuring that this requirement is met.

187—17.10(17A,533D) Complaints and investigations.

17.10(1) The superintendent may, at any time and as often as the superintendent deems necessary, investigate a licensee and examine the licensee's books, accounts, records, and files.

17.10(2) The superintendent may investigate complaints about, or alleged violations by, any licensee.

17.10(3) The following shall constitute a complaint or alleged violation:

a. A written complaint received from a consumer, member of the public, employee, business affiliate, or other governmental agency.

b. Notice to the superintendent from any source that the licensee has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the superintendent from any source that an individual with control of the licensee has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy

to defraud, or other similar offense, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction.

187—17.11(17A,533D) Disciplinary action.

17.11(1) The superintendent has authority pursuant to Iowa Code chapters 533D and 17A to impose discipline for violations of Iowa Code chapter 533D and the rules promulgated thereunder.

17.11(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in Iowa Code section 533D.12(2) when the superintendent finds any of the following:

a. The licensee has violated a provision of Iowa Code chapter 533D or a rule adopted under Iowa Code chapter 533D or any other state or federal law applicable to the conduct of the licensee's business.

b. A fact or condition exists which, had it existed at the time of the licensee's original application for a license, would have warranted the superintendent to refuse to issue the original license.

c. The licensee is found upon investigation to be insolvent, in which case the license shall be revoked immediately.

d. The licensee has violated an order of the superintendent.

e. The licensee fails to fully cooperate with an examination or investigation, including failing to respond to an inquiry from the superintendent within 30 days of the date the superintendent mails a written communication directed to the licensee's last-known address on file with the superintendent.

f. The licensee has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the superintendent.

g. The licensee continues to operate a delayed deposit services business without an active and current license.

h. The licensee operates a delayed deposit services business in the same location as another business without the superintendent's written approval.

i. The licensee has abandoned its place of business for 60 or more days.

j. The licensee fails to notify the superintendent within 30 days of the occurrence of one of the significant events set forth in Iowa Code section 533D.5.

k. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's license, registration, or authorization to operate a delayed deposit services business or enter into delayed deposit transactions under the other state's or jurisdiction's law.

l. The licensee fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.

m. The licensee fails to notify the superintendent of a change in control, name, or principal place of business.

n. The licensee fails to pay a license fee required by Iowa Code chapter 533D or to maintain a bond required by Iowa Code chapter 533D.

17.11(3) The superintendent shall not refund a license fee, in whole or in part, of a license that has been suspended, revoked, or surrendered.

187—17.12(17A,533D) Annual report. Licensees must file with the superintendent an annual report, on forms prescribed by the superintendent, on or before April 15. The information contained in the annual report shall be confidential, and the superintendent may publish the information only in composite form. The superintendent may assess a late fee of $10 for each day the annual report is delinquent.

187—17.13(17A,533D) Restrictions on making delayed deposit transactions. A licensee shall adhere to the following restrictions related to making delayed deposit transactions.

17.13(1) A licensee shall not engage in any of the acts prohibited by Iowa Code section 533D.10.

17.13(2) A licensee shall not enter into a new delayed deposit transaction with a maker on the same day the maker pays an existing delayed deposit transaction with the licensee unless:

a. The aggregate amount of the check(s) the maker is paying and the new check the maker is writing does not exceed the statutory maximum of $500; and

b. The licensee does not hold more than two outstanding checks in the maker's name, including the check(s) being paid and the new check being issued.

These rules are intended to implement Iowa Code chapters 17A and 533D.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/17.

ARC 3080C

BANKING DIVISION[187]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 535B.14, the Iowa Division of Banking (IDOB) hereby amends Chapter 18, "Mortgage Bankers, Mortgage Brokers, and Real Estate Closing Agents," Iowa Administrative Code.

These amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The amendments to Chapter 18 are a result of the IDOB's review of the existing administrative rules. These amendments are intended to replace antiquated terminology and statutory references, to eliminate outdated requirements, and to update certain ongoing requirements to accurately reflect current practice, specifically regarding the use of the nationwide multistate licensing system.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2993C** on March 29, 2017. No public hearing was held, and no comments were received. The adopted amendments are identical to those published under Notice.

These rules are subject to waiver and variance pursuant to 187—Chapter 12.

The Iowa Division of Banking adopted these amendments on May 4, 2017.

No existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added. The IDOB has therefore concluded that these amendments should not have an impact on jobs in Iowa.

These amendments are intended to implement Iowa Code chapters 17A and 535B.

These amendments will become effective July 1, 2017.

The following amendments are adopted.

ITEM 1. Amend rule **187—18.1(17A,535B)**, definitions of "License application," "Licensee," "Mortgage loan originator," "Nationwide mortgage licensing system and registry" and "Services a loan," as follows:

"License application" means an electronic application or registration submitted to the administrator for a license to operate as a mortgage banker, mortgage broker, or closing agent in accordance with the provisions of ~~2009~~ Iowa Code ~~Supplement~~ section 535B.4 ~~as amended by 2010 Iowa Acts, Senate File 2348, section 4~~.

"Licensee" means a person who has a license to operate as a mortgage banker, mortgage broker, or closing agent in accordance with the provisions of ~~2009~~ Iowa Code ~~Supplement~~ section 535B.4 ~~as amended by 2010 Iowa Acts, Senate File 2348, section 4~~.

"Mortgage loan originator" means a natural person who is licensed under ~~2009 Iowa Acts, Senate File 355,~~ Iowa Code chapter 535D and 187—Chapter 19.

"Nationwide ~~mortgage~~ multistate licensing system ~~and registry~~" or *"~~NMLS&R~~ NMLS"* means a ~~mortgage~~ multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and

registration of mortgage loan originators, mortgage providers, mortgage lenders, mortgage brokers, and mortgage servicers.

"Services a loan" or *"servicing a loan"* means undertaking the direct collection of payments on a loan from the borrower or holding the right to undertake direct collection of payments on a loan from the borrower. Undertaking the direct collection of payments means receiving any scheduled periodic payments from a borrower pursuant to the terms of any federally related mortgage loan. Holding the right to undertake direct collection of payments means holding the right to service a loan, including where the holder of this right contracts with or otherwise arranges for another person to service the loan.

ITEM 2. Amend rule 187—18.2(17A,535B) as follows:

187—18.2(17A,535B) Application for license.

18.2(1) Application for a license to operate as a mortgage banker, mortgage broker, or closing agent shall be submitted to the administrator through the ~~NMLS&R~~ NMLS, and all requested information shall be provided on or with the application form. The administrator may consider an application or registration withdrawn if ~~it~~ the application or registration does not contain all of the information required and the information is not submitted to the administrator within 30 days after the administrator requests the information.

18.2(2) Each officer, director, and individual who has control of an applicant must provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation.

~~**18.2(2)**~~ **18.2(3)** The license application shall be accompanied by a fee of $500 plus $40 per additional branch location. The $500 fee is not subject to refund. The applicant shall also pay any additional fees required by the ~~NMLS&R~~ NMLS including but not limited to the following: system processing fees, background check fees, and credit background check fees.

~~**18.2(3)**~~ **18.2(4)** If any information changes after the filing of the initial application, the applicant shall provide updated information to the administrator in writing within 10 ~~calendar~~ days of the change. Failure to provide updated information when a change has occurred may result in denial of the application.

~~**18.2(4)**~~ **18.2(5)** The administrator shall approve or deny a license application in accordance with the provisions of ~~2009~~ Iowa Code ~~Supplement~~ section 535B.5 ~~as amended by 2010 Iowa Acts, Senate File 2348, section 5~~. A person shall not be eligible for licensing as a mortgage banker or mortgage broker unless all mortgage loan originators who are employed by, under contract with, or exclusive agents of the person have successfully completed the licensing requirements of Iowa Code chapter 535D.

~~**18.2(5)**~~ **18.2(6)** An applicant for a mortgage banker or mortgage broker license must file with the administrator a bond complying with the provisions of ~~2009~~ Iowa Code ~~Supplement~~ section 535B.9 ~~as amended by 2010 Iowa Acts, Senate File 2348, section 7~~. The bond amount required to be filed and maintained by the applicant shall be set and adjusted as necessary annually in accordance with the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, underwritten, and serviced, as the case may be, by the applicant or licensee during the preceding calendar year:

Loans	Bond Amount
$0 – $100,000,000	$100,000
Over $100,000,000	$150,000

~~**18.2(6)**~~ **18.2(7)** An applicant for a closing agent license must file with the administrator a bond in the amount of $25,000 which complies with the provisions of ~~2009~~ Iowa Code ~~Supplement~~ section 535B.9 ~~as amended by 2010 Iowa Acts, Senate File 2348, section 7~~.

~~**18.2(7)**~~ **18.2(8)** Licenses expire on the next December 31 after issuance. However, licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2008, would not expire until December 31, 2009.

ITEM 3. Amend subrule 18.3(2) as follows:

18.3(2) Application to renew a license shall be submitted to the administrator ~~before~~ by December 1 of the year of expiration through the ~~NMLS&R~~ NMLS. All requested information shall be provided to the administrator as directed by the ~~NMLS&R~~ NMLS. Applications for renewal of a license to transact business solely as a mortgage broker or closing agent must be accompanied by a fee of $200. Applications for renewal of a license to transact business as a mortgage banker must be accompanied by a fee of $400. In addition, the mortgage banker or mortgage broker licensee shall pay a branch office renewal fee of $40 per branch. The administrator may assess late fees of up to $10 per day for applications submitted after December 1.

ITEM 4. Adopt the following **new** rule 187—18.4(17A,535B):

187—18.4(17A,535B) Grounds for approval or denial.

18.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code section 535B.5.

18.4(2) The following may be considered evidence that the business of the applicant may not be operated honestly in the public interest consistent with the purposes of Iowa Code chapter 535B and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or has pleaded guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering. A pardon of a conviction shall not constitute a conviction for purposes of this subrule.

ITEM 5. Amend rule 187—18.7(17A,535B), introductory paragraph, as follows:

187—18.7(17A,535B) Notice of significant events. A licensee shall notify the administrator ~~immediately and in writing~~ within ~~five business~~ 10 days of the occurrence of any of the following events.

ITEM 6. Amend rule 187—18.8(17A,535B) as follows:

187—18.8(17A,535B) Changes in the licensee's business; fees.

18.8(1) No change.

18.8(2) A licensee shall notify the administrator through the ~~NMLS&R~~ NMLS of a change in the location, the addition, or the closing of any office prior to the change, addition, or closure.

18.8(3) A mortgage banker or mortgage broker licensee shall maintain on file with the administrator, through the ~~NMLS&R~~ NMLS, a list of all mortgage loan originators who are employed by, under contract with, or exclusive agents of the licensee. The licensee shall pay any fees assessed by the ~~NMLS&R~~ NMLS to add a mortgage loan originator to the licensee's list in the ~~NMLS&R~~ NMLS.

18.8(4) When a mortgage loan originator ceases to be employed by, under contract with, or an exclusive agent of a mortgage banker or mortgage broker licensee, the licensee shall notify the administrator, through the ~~NMLS&R~~ NMLS, within ~~five business~~ 10 days. The notification shall include the reasons for the termination of the mortgage loan originator's employment, contract, or agency.

18.8(5) A mortgage banker or mortgage broker licensee shall notify the administrator through the ~~NMLS&R~~ NMLS of the addition of any mortgage loan originator, owner, officer, partner, or director within ~~five business~~ 10 days of addition.

18.8(6) No change.

18.8(7) ~~NMLS&R~~ NMLS system processing fees. In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the ~~NMLS&R~~ NMLS attributed to the licensee's record in the ~~NMLS&R system~~ NMLS including but not limited to the initial set-up fee, an annual processing fee, and a loan sponsorship transfer fee.

18.8(8) When a change of control of a licensee is proposed, the party that will assume control of the licensee shall give notice to the superintendent through the NMLS at least 60 days before the proposed change will take effect. Control is defined in Iowa Code section 535B.6A. The party that will assume control of the licensee shall furnish the superintendent through the NMLS with the same information required of initial applicants for a license, along with the appropriate fee. The party that will assume control may be required to provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. The superintendent shall approve or deny the request in accordance with the provisions of Iowa Code section 535B.5 and rule 187—18.4(17A,535B).

ITEM 7. Amend subrule 18.16(4) as follows:

18.16(4) *Application log.* A mortgage banker or mortgage broker licensee shall maintain an application log. The application log is a chronological list of applications received. The application log shall include the name of the applicant~~,~~; date the application was completed~~, the~~; name of the broker, the lender, and the mortgage loan originator, as applicable, including the unique ~~NMLS&R~~ NMLS identification number assigned to each~~,~~; notes for action taken on applications (such as "approved," "denied," or "withdrawn")~~,~~; and date of action. For approved applications, the application log shall show the date the loan closed and the name of the lender. For purposes of these rules, information from an applicant becomes an application when the licensee obtains the name and social security number of the applicant.

ITEM 8. Amend subrule 18.16(5) as follows:

18.16(5) *Loan register.* A mortgage banker or mortgage broker licensee shall maintain a loan register. The loan register shall include the following information for every loan that is made: the date of the transaction~~,~~; the name of the borrower~~,~~; the name of the broker, the lender, the mortgage loan originator, and the closing agent, as applicable, including the unique ~~NMLS&R~~ NMLS identification number assigned to each~~,~~; and the amount financed. The register shall be kept chronologically in the order the loans closed. The loan register may be combined with the application log.

ITEM 9. Amend subrule 18.16(6) as follows:

18.16(6) *Application file.* A mortgage banker or mortgage broker licensee shall maintain an application file for each application received. The application file shall contain copies of the application and any required disclosures. A copy of any adverse action taken on the application, including any documentation supporting that action such as an appraisal report or credit report, shall also be placed in the application file. The application file shall also contain the name of the broker, the lender, and the mortgage loan originator, as applicable, including the unique ~~NMLS&R~~ NMLS identification number assigned to each.

ITEM 10. Amend subrule 18.16(7) as follows:

18.16(7) *Loan file.* A mortgage banker or mortgage broker licensee shall maintain a loan file for each loan made. The loan file consists of the application file, the appraisal report, underwriting verifications, the closing file described in subrule 18.22(6) including other supporting documentation, and documents from the loan closing. These documents include: note, mortgage, all truth-in-lending disclosures, and all Real Estate Settlement Procedures Act disclosures. The loan file shall also contain the name of the broker, the lender, the mortgage loan originator, and the closing agent, as applicable, including the unique ~~NMLS&R~~ NMLS identification number assigned to each.

ITEM 11. Amend subparagraph **18.16(11)"a"(3)** as follows:

(3) Information included in the ~~"good faith estimate" (GFE)~~ initial disclosure required under the federal Real Estate Settlement Procedures Act, including the rate, the date of any interest rate lock, and an itemization of settlement charges and all broker compensation.

ITEM 12. Amend subparagraph **18.16(11)"a"(4)** as follows:

(4) Information included in the final ~~HUD-1 Settlement Statement~~ closing disclosure.

ITEM 13. Amend rule 187—18.17(17A,535B) as follows:

187—18.17(17A,535B) Mortgage call reports. Each mortgage banker and mortgage broker licensee shall submit to the ~~NMLS&R~~ NMLS reports of condition, which shall be in such form and shall contain such information as the ~~NMLS&R~~ NMLS shall require. For each day after the ~~NMLS&R-established~~ NMLS-established due date that the report is ~~no~~ not received, the administrator may assess late fees of $10 per day.

ITEM 14. Amend paragraph **18.18(1)"d"** as follows:

d. An advertisement shall clearly show the licensee's unique ~~NMLS&R~~ NMLS identification number.

ITEM 15. Amend paragraph **18.20(2)"j"** as follows:

j. The licensee fails to notify the administrator within ~~five~~ 10 days of the occurrence of one of the significant events set forth in rule 187—18.7(17A,535B).

ITEM 16. Amend subrule 18.22(2) as follows:

18.22(2) A closing agent shall disburse or deliver funds only in accordance with closing instructions from the lender, the attorney's title opinion or title commitment, and the real estate purchase agreement, when applicable. All disbursements shall agree ~~to~~ with the final signed ~~settlement statement~~ closing disclosure.

ITEM 17. Amend paragraph **18.22(6)"b"** as follows:

b. A signed ~~settlement statement~~ closing disclosure that totals properly and is supported by written instructions for all amounts (such as closing instructions, invoices, or written payoffs). If the ~~settlement~~ closing disclosure requires changes, a copy of the new ~~settlement statement~~ closing disclosure with changes clearly documented shall be maintained in the file.

ITEM 18. Amend paragraph **18.22(6)"e"** as follows:

e. Detailed records of the individuals present at each closing~~, including copies of photo identification,~~ and specifying where and when each closing is held.

ITEM 19. Amend **187—Chapter 18**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 17A and 535B ~~and 2010 Iowa Acts, Senate File 2348~~.

[Filed 5/4/17, effective 7/1/17]
[Published 5/24/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/17.

ARC 3081C

BANKING DIVISION[187]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 535D.21, the Iowa Division of Banking (IDOB) hereby amends Chapter 19, "Mortgage Loan Originators," Iowa Administrative Code.

These amendments reflect the Iowa Division of Banking's compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, "over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies." The amendments to Chapter 19 are intended to clarify the meaning of Chapter 19, to eliminate outdated requirements, and to reflect current administrative practices, specifically those regarding the use of the nationwide multistate licensing system.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2991C** on March 29, 2017. No public hearing was held, and no comments were received. These amendments are identical to those published under Notice.

These rules are subject to waiver and variance pursuant to 187—Chapter 12.

The Iowa Division of Banking adopted these amendments on May 4, 2017.

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that the proposed amendments will have no impact on jobs in Iowa.

These amendments are intended to implement Iowa Code chapters 17A and 535D.

These amendments will become effective July 1, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 187—19.1(17A,83GA,SF355) as follows:

187—19.1(17A,~~83GA,SF355~~ 535D) Definitions. For the purposes of this chapter, the definitions in ~~2009 Iowa Acts, Senate File 355,~~ Iowa Code section 535D.3 shall apply. In addition, unless the context otherwise requires, the following definitions shall apply to this chapter and to ~~2009 Iowa Acts, Senate File 355~~ Iowa Code chapter 535D:

"Licensee" means a person who has a license to operate as a mortgage loan originator in accordance with the provisions of ~~2009 Iowa Acts, Senate File 355, section 4~~ Iowa Code section 535D.4.

"Nationwide ~~mortgage~~ multistate licensing system ~~and registry~~" or *"~~NMLS&R~~ NMLS"* means a ~~mortgage~~ multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage providers, mortgage lenders, mortgage brokers, and mortgage servicers.

"SAFE mortgage loan originator test" means the licensing test approved by the ~~NMLS&R~~ NMLS in accordance with the provisions of ~~2009 Iowa Acts, Senate File 355, section 9~~ Iowa Code section 535D.8.

"Servicer" means a person that collects or receives payments, including principal, interest and trust items such as hazard insurance, property taxes and other amounts due, on behalf of a note holder or investor in accordance with the terms of a residential mortgage loan.

"Superintendent" means the superintendent of banking appointed pursuant to Iowa Code section 524.201.

"Takes a residential mortgage loan application," with respect to ~~2009 Iowa Acts, Senate File 355, section 3, subsection 8~~ Iowa Code section 535D.3(8), means:

1. Any communication, regardless of form, from a mortgage loan originator to a borrower soliciting a loan application or requesting information typically required in an application for the purpose of deciding whether or not to extend the requested offer of a loan to a borrower; or

2. Any communication, regardless of form, from a borrower to a mortgage loan originator for an offer or responding to a solicitation for an offer of residential mortgage loan terms or providing information typically required in an application for the purpose of deciding whether or not to extend the requested offer of a loan to a borrower.

ITEM 2. Amend rule 187—19.2(17A,83GA,SF355) as follows:

187—19.2(17A,~~83GA,SF355~~ 535D) Mortgage loan originator requirements.

19.2(1) A natural person who applies for a license pursuant to ~~2009 Iowa Acts, Senate File 355, section 4,~~ Iowa Code section 535D.4 to act as a mortgage loan originator in this state shall apply with the superintendent through the ~~NMLS&R~~ NMLS. The superintendent may consider an application withdrawn if it does not contain all of the information required and the information is not submitted to the superintendent within 30 days after the superintendent requests the information.

19.2(2) Prior to applying for a mortgage loan originator license, the applicant must complete the prelicensing education requirements pursuant to ~~2009 Iowa Acts, Senate File 355, section 8~~ Iowa Code section 535D.7.

19.2(3) Prior to applying for a mortgage loan originator license, the applicant must pass the SAFE mortgage loan originator test, which is comprised of two components: a national component and a state component. Applicants must pass each component with a score of 75 percent or higher. ~~Mortgage loan originators who passed the Iowa loan originator test as part of the registration process under 2009 Iowa Acts, Senate File 355, section 5, are not required to take the Iowa state component of the SAFE mortgage loan originator test. The superintendent will develop a process by which to certify to NMLS&R that the applicant has completed the state component. Such applicants are still required to pass the national component of the SAFE mortgage loan originator test.~~

19.2(4) The fee for an initial mortgage loan originator application is $50. This fee is nonrefundable. This fee is in addition to any fees established and charged by the ~~NMLS&R~~ NMLS, any approved education course provider, any approved education testing provider, any law enforcement agency for fingerprints and background checks, or by any credit reporting agency used by the ~~NMLS&R~~ NMLS.

19.2(5) An applicant must provide fingerprints, authorize a fingerprint background check through ~~NMLS&R~~ NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. This requirement applies to all individuals, regardless of whether the applicant was previously registered under Iowa Code chapter 535B or if the applicant has previously submitted fingerprint cards for licensure. ~~Until the NMLS&R completes the implementation of the electronic fingerprint capture program, the applicant must submit to a criminal background check by providing a fingerprint card and waiver in a manner as required by the superintendent.~~

19.2(6) Each applicant must provide authorization to obtain a credit report through ~~NMLS&R~~ NMLS.

19.2(7) to **19.2(9)** No change.

19.2(10) An individual who has completed 20 hours of prelicensure education pursuant to 12 U.S.C. 5104(c) must retake 20 hours of prelicensure education in order to be eligible for mortgage loan originator licensure if the individual:

a. Fails to acquire a valid state license or federal registration as a mortgage loan originator within three years from the date of federal compliance with 12 U.S.C. 5104(c); or

b. Fails to acquire a valid state license or federal registration as a mortgage loan originator within three years from the last date of licensure or registration as a mortgage loan originator.

ITEM 3. Amend rule 187—19.3(17A,83GA,SF355) as follows:

187—19.3(17A,~~83GA,SF355~~ 535D) Grounds for denial of license.

19.3(1) The superintendent shall deny an application for a mortgage loan originator license if the applicant does not meet the qualifications outlined in ~~2009 Iowa Acts, Senate File 355, section 7~~ Iowa Code section 535D.6. For the purpose of applying ~~2009 Iowa Acts, Senate File 355, section 7, subsection 2~~ Iowa Code section 535D.6(2), "dishonesty or breach of trust" includes, but is not limited to, forgery, embezzlement, obtaining money under false pretenses, theft, extortion, fraud, conspiracy to defraud, tax evasion, or another similar offense.

19.3(2) The superintendent may deny an application for a mortgage loan originator license for any of the following reasons:

a. No change.

b. The applicant has been barred, removed, or prohibited from serving in any capacity in a financial institution by any state or federal regulatory agency, including but not limited to the Office of Comptroller of the Currency, ~~the Office of Thrift Supervision,~~ the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System, or the U.S. Department of Housing and Urban Development.

c. to *f.* No change.

g. The applicant has demonstrated a lack of moral character in a manner that the superintendent reasonably believes will impair the applicant's ability to act as a mortgage loan originator in full compliance with the public interest and state policies described in Iowa Code ~~chapter~~ chapters 535B and 535D.

h. to *j.* No change.

ITEM 4. Amend rule 187—19.4(17A,83GA,SF355) as follows:

187—19.4(17A,~~83GA,SF355~~ 535D) Renewal of mortgage loan originator license.

19.4(1) No change.

19.4(2) ~~Before~~ By December 1 of the year of expiration, a mortgage loan originator license shall be renewed through the ~~NMLS&R~~ NMLS, with all requested information provided as directed by the ~~NMLS&R~~ NMLS, and must be accompanied by a fee of $50. This fee is nonrefundable. This fee is in addition to any fees established and charged by the ~~NMLS&R~~ NMLS, any approved education course provider, any approved education testing provider, any law enforcement agency for fingerprints and background checks, or by any credit reporting agency used by the ~~NMLS&R~~ NMLS. The superintendent may assess a late fee of $5 per day not to exceed $100 for a mortgage loan originator license renewal accepted for processing after December 1.

19.4(3) No change.

19.4(4) The superintendent shall grant an application to renew a mortgage loan originator license if the licensee meets the standards for renewal in ~~2009 Iowa Acts, Senate File 355, section 10,~~ Iowa Code section 535D.9 and:

a. to *c.* No change.

ITEM 5. Amend rule 187—19.5(17A,83GA,SF355), parenthetical implementation statute, as follows:

187—19.5(17A,~~83GA,SF355~~ 535D) Reinstatement of license.

ITEM 6. Amend rule 187—19.6(17A,83GA,SF355), introductory paragraph, as follows:

187—19.6(17A,~~83GA,SF355~~ 535D) Notice of significant events. A licensee shall notify the superintendent ~~either directly in writing or~~ through the ~~NMLS&R~~ NMLS within ~~five business~~ ten days of the occurrence of any of the following events.

ITEM 7. Amend rule 187—19.7(17A,83GA,SF355), parenthetical implementation statute, as follows:

187—19.7(17A,~~83GA,SF355~~ 535D) Annual report.

ITEM 8. Amend rule 187—19.8(17A,83GA,SF355) as follows:

187—19.8(17A,~~83GA,SF355~~ 535D) Administrative fees.

19.8(1) *Investigation or examination fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division as described in ~~2009 Iowa Acts, Senate File 355, section 12, subsection 2~~ Iowa Code section 535D.11(2).

19.8(2) and **19.8(3)** No change.

19.8(4) *Required annual report.* A licensee who fails to file with the superintendent the annual report required under rule 187—19.7(17A,~~83GA,SF355~~ 535D) by March 31 of each year shall be subject to a late penalty of $10 for each day the annual report is delinquent, but in no event shall the aggregate of late penalties exceed $300. The superintendent may relieve any licensee from the payment of any penalty, in whole or in part, for good cause.

19.8(5) ~~*NMLS&R*~~ *NMLS system processing fees.* In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the ~~NMLS&R~~ NMLS attributed to the licensee's record in the ~~NMLS&R system~~ NMLS, including but not limited to the initial set-up fee, an annual processing fee, and a loan sponsorship transfer fee.

ITEM 9. Amend rule 187—19.9(17A,83GA,SF355), parenthetical implementation statute, as follows:

187—19.9(17A,~~83GA,SF355~~ 535D) Continuing education.

ITEM 10. Amend subrule 19.9(2) as follows:

19.9(2) Each continuing education course shall first be approved by the ~~NMLS&R~~ NMLS before the superintendent grants continuing education credit.

ITEM 11. Amend subrule 19.9(4) as follows:

19.9(4) The entity providing the continuing education course shall submit to the ~~NMLS&R~~ NMLS evidence of the licensee's satisfactory completion of approved continuing education.

ITEM 12. Amend subrule 19.9(6) as follows:

19.9(6) Each mortgage loan originator shall ultimately be responsible for maintaining verification records in the form of completion certificates or other documents providing evidence of satisfactory completion of approved continuing education courses. The mortgage loan originator shall retain documentation for a period of three years after the effective date of the mortgage loan originator license renewal. The superintendent may conduct random audits to verify the continuing education submitted to the ~~NMLS&R~~ NMLS.

ITEM 13. Amend rule 187—19.10(17A,83GA,SF355) as follows:

187—19.10(17A,~~83GA,SF355~~ 535D) Independent contractor—loan processor or underwriter.

19.10(1) For the purpose of ~~2009 Iowa Acts, Senate File 355, section 4~~ Iowa Code section 535D.4, "a loan processor or underwriter who is an independent contractor" means any person who processes or underwrites residential mortgage loans and is not a W-2 employee of a company licensed under Iowa Code chapter 535B, 536, or 536A.

19.10(2) An independent contractor must meet all the licensure requirements found in rule 187—19.2(17A,~~83GA,SF355~~ 535D) with the exception of subrule 19.2(8).

19.10(3) No change.

ITEM 14. Amend rule 187—19.11(17A,83GA,SF355) as follows:

187—19.11(17A,~~83GA,SF355~~ 535D) ~~NMLS&R~~ NMLS information challenge process. A mortgage loan originator may challenge information entered into the ~~NMLS&R~~ NMLS by the superintendent by filing a dispute with the superintendent outlining the grounds for the dispute. The grounds for the dispute shall be limited to a review of the factual accuracy of the information regarding the mortgage loan originator's own license record submitted to the ~~NMLS&R~~ NMLS by the superintendent. A mortgage loan originator may not file a dispute in order to protest a disciplinary action taken by the superintendent or to appeal the underlying reasons for the disciplinary action. The superintendent shall conduct a paper review of the dispute and determine whether the information submitted to the ~~NMLS&R~~ NMLS was factually correct. The superintendent shall notify the mortgage loan originator of the determination within 60 days of the receipt of the dispute. If the superintendent determines the information submitted to the ~~NMLS&R~~ NMLS is factually incorrect, the superintendent shall take prompt steps to correct the information submitted.

ITEM 15. Amend rule 187—19.12(17A,83GA,SF355) as follows:

187—19.12(17A,~~83GA,SF355~~ 535D) Disciplinary action.

19.12(1) The superintendent has authority, pursuant to ~~2009 Iowa Acts, Senate File 355, and~~ Iowa Code ~~chapter~~ chapters 535D and 17A, to impose discipline for violations of ~~2009 Iowa Acts, Senate File 355,~~ Iowa Code chapter 535D and the rules promulgated thereunder.

19.12(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in ~~2009 Iowa Acts, Senate File 355, section 14,~~ Iowa Code section 535D.13 when the superintendent finds any of the following:

a. The licensee has violated a provision of ~~2009 Iowa Acts, Senate File 355,~~ Iowa Code chapter 535D or a rule adopted ~~under 2009 Iowa Acts, Senate File 355,~~ thereunder or any other state or federal law applicable to the conduct of mortgage loan originators, including but not limited to Iowa Code chapters 535 and 535A.

b. No change.

c. The licensee fails at any time to meet the requirements of ~~2009 Iowa Acts, Senate File 355,~~ Iowa Code section ~~7~~ 535D.6 or ~~10,~~ 535D.9 or withholds information or makes a material misstatement in an application for a license or the renewal of a license.

d. No change.

e. The licensee fails to fully cooperate with an examination or investigation, including failure to respond to a superintendent inquiry within 30 ~~calendar~~ days of the date of mailing a written communication directed to the licensee's last-known address on file with the superintendent.

f. to *i.* No change.

j. The licensee fails to notify the superintendent within ~~five~~ ten days of the occurrence of one of the significant events set forth in rule 187—19.6(17A,~~83GA,SF355~~ 535D).

k. and *l.* No change.

19.12(3) No change.

ITEM 16. Amend the following implementation sentence in **187—Chapter 19**:

Rules 187—19.1(17A,~~83GA,SF355~~ 535D) to 187—19.12(17A,~~83GA,SF355~~ 535D) are intended to implement ~~2009 Iowa Acts, Senate File 355~~ Iowa Code chapters 17A and 535D.

[Filed 5/4/17, effective 7/1/17]
[Published 5/24/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/17.

ARC 3082C

BEEF INDUSTRY COUNCIL, IOWA[101]

Adopted and Filed

Pursuant to the authority of Iowa Code section 181.18, the Iowa Beef Industry Council hereby amends Chapter 1, "Organization and Operation," Chapter 2, "Rules of Practice," Chapter 3, "Excise Tax on Beef Sales," Chapter 4, "Election of Members," and Chapter 5, "Public Records and Fair Information Practices," Iowa Administrative Code.

2016 Iowa Acts, House File 2269, changed the name of the Iowa Beef Industry Council to the Executive Committee. The Iowa Beef Cattle Producers Association will continue to do business as the Iowa Beef Industry Council. The legislation reinstated the state beef assessment and required that refunds be requested within 90 days of collection. These adopted amendments reflect other changes to the membership of the Executive Committee and update the address.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2999C** on March 29, 2017. No comments were received from the public. The adopted amendments are identical to the noticed amendments.

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

These amendments are intended to implement Iowa Code chapter 181.

These amendments will become effective June 28, 2017.

The following amendments are adopted.

ITEM 1. Amend the **Agency Name** as follows:

~~BEEF INDUSTRY COUNCIL~~ BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]

ITEM 2. Amend rule 101—1.1(181) as follows:

101—1.1(181) ~~Iowa beef industry council composition~~ Composition and purpose. The Iowa beef cattle producers association is doing business as the Iowa beef industry council. The Iowa beef industry council ~~is~~ provides oversight to the "executive committee" referred to in Iowa Code section ~~181.6(3)~~ 181.3. ~~It~~ The executive committee consists of ~~eight~~ ten members, two of whom serve ex officio and five of whom are elected and ~~one~~ three who ~~is~~ are appointed by the respective parties listed in that section. The council engages in market development for beef cattle and veal calves and their products, advances public relations for the beef cattle and veal calf industry, and administers the ~~excise tax~~ state assessment on beef cattle and veal calf sales imposed in Iowa Code chapter 181.

This rule is intended to implement ~~1986 Iowa Acts, House File 2379, section 3~~ Iowa Code chapter 181.

ITEM 3. Amend rule 101—1.2(181), introductory paragraph, as follows:

101—1.2(181) Officers. The officers of the Iowa beef industry council shall be as follows: Chair, vice chair, secretary, ~~and~~ treasurer and at large. Each officer shall be elected by a vote of the council. A term of office is one year.

ITEM 4. Amend rule 101—1.5(181) as follows:

101—1.5(181) Quorum. ~~Two-thirds~~ A majority of the members eligible to vote shall constitute a quorum. ~~Two-thirds of the council is six members.~~

ITEM 5. Amend subrule 1.7(1) as follows:

1.7(1) ~~*Transmittal*~~ *Monthly remittance form.* This form is used to accompany the receipt of checkoff moneys to the council.

ITEM 6. Amend rule 101—2.1(181) as follows:

101—2.1(181) Public information. The public is invited to obtain information or make informal requests of the council by addressing these matters, either orally or in writing, to the Iowa Beef Industry Council, ~~123 Airport Road~~ P.O. Box 451, Ames, Iowa 50010; or at 2055 Ironwood Court, Ames, Iowa 50014.

ITEM 7. Amend subrule 2.3(2) as follows:

2.3(2) The petition shall be filed at the office of the council at ~~123 Airport Road~~ 2055 Ironwood Court, Ames, Iowa 50014; or by mail to P.O. Box 451, Ames, Iowa 50010.

ITEM 8. Amend rule 101—2.4(181), introductory paragraph, as follows:

101—2.4(181) Petition for adoption of rules. An interested person may file with the council a written request that the council adopt, amend, or repeal a rule. The petition shall be addressed to the Iowa Beef Industry Council, ~~123 Airport Road~~ P.O. Box 451, Ames, Iowa 50010, and shall include:

ITEM 9. Amend **101—Chapter 3**, title, as follows:

~~EXCISE TAX~~ STATE ASSESSMENT ON BEEF SALES

ITEM 10. Amend rule 101—3.1(181) as follows:

101—3.1(181) Collection of ~~tax~~ assessment. All persons required to pay the ~~excise tax~~ state assessment under Iowa Code chapter 181 must remit to the council all ~~excise taxes~~ assessments collected during any calendar month~~, no later than the last day of the month following that calendar month~~ by the fifteenth of the month following the end of the prior reporting period in which the cattle were sold pursuant to Iowa Code section 181.11(1).

ITEM 11. Amend rule 101—3.2(181) as follows:

101—3.2(181) Refunds. Refunds shall be paid by the council to any person from whom the ~~excise tax~~ state assessment is collected, upon timely application to the council as prescribed in Iowa Code section 181.12.

ITEM 12. Amend rule 101—3.3(181), introductory paragraph, as follows:

101—3.3(181) Applicable dates. A ~~tax is considered "paid" or "remitted," and a~~ refund application is considered "filed" when made within 90 days after the assessment's collection:

ITEM 13. Amend rule 101—3.4(181) as follows:

101—3.4(181) ~~**Suspension of excise tax**~~ **Reinstatement of state assessment.** The state assessment~~, levy, and collection of the excise tax under~~ collected pursuant to Iowa Code chapter 181 is ~~suspended~~ reinstated effective March 1, 2017. All state assessment remittances shall be paid by the fifteenth of the month following the end of the prior reporting period in which the cattle were sold pursuant to Iowa Code section 181.11(1).

This rule is intended to implement Iowa Code section 181.7A.

ITEM 14. Amend rule 101—4.3(181) as follows:

101—4.3(181) Place of filing. Nomination petitions shall be filed with the Iowa Beef Industry Council, ~~123 Airport Road~~ P.O. Box 451, Ames, Iowa 50010.

ITEM 15. Amend rule 101—4.4(181) as follows:

101—4.4(181) Absentee ballot. Requests for absentee ballots may be made by producers by telephone, ~~telegram,~~ in person, or in writing to the Executive Director of the Iowa Beef Industry Council, ~~123 Airport Road~~ P.O. Box 451, Ames, Iowa 50010; or at 2055 Ironwood Court, Ames, Iowa 50014.

4.4(1) Absentee ballots shall be returned to the executive director of the Iowa beef industry council, and if returned by mail, shall be mailed with proper postage to the Executive Director of the Iowa Beef Industry Council, ~~123 Airport Road~~ P.O. Box 451, Ames, Iowa 50010.

4.4(2) Reserved.

ITEM 16. Amend 101—Chapter 5, introductory paragraph, as follows:

The Iowa beef industry council hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are ~~printed in the first volume of the Iowa Administrative Code~~ published at https://www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the General Assembly's Web site.

ITEM 17. Adopt the following **new** definitions in rule **101—5.1(17A,22)**:

"Cattle" means any live domesticated bovine animal regardless of age.

"Producer" means any person who owns or acquires ownership of cattle in this state. However, a person shall not be considered a producer if any of the following apply:

1. The person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

2. The person acquired ownership of cattle to facilitate the transfer of ownership of such cattle from the seller to a third party; resold such cattle no later than ten days from the date on which the person acquired ownership; and certified as required by the rules adopted by the executive committee.

"Purchase" occurs when a purchaser enters into a verbal or written agreement with a producer to accept delivery of cattle from the producer.

"Purchaser" means a person who purchases cattle from a producer.

ITEM 18. Amend subrule 5.3(1) as follows:

5.3(1) *Location of record.* In lieu of the words "(insert agency head)", insert "executive director". In lieu of the words "(insert agency name and address)", insert "Iowa Beef Industry Council, ~~123 Airport Road~~ P.O. Box 451, Ames, Iowa 50010".

ITEM 19. Amend rule 101—5.10(17A,22) as follows:

101—5.10(17A,22) Personally identifiable information. Agency records include the following personally identifiable information: ~~excise tax~~ state assessment remittances identifying individual producers and the amounts remitted, refund requests from producers, and personal information in confidential personnel records. This information is collected pursuant to the authority of Iowa Code chapter 181 and is stored in the office files of the council office. ~~Personally identifiable~~ All information contained in ~~these records~~ the monthly remittance forms, private treaty forms, and refund requests submitted to the agency shall be confidential to the extent provided in Iowa Code section 22.7. ~~However, appropriate~~ Appropriate totals, summaries, aggregations, and other staff analyses of information contained in these files, when presented in a form not containing personally identifiable information, shall be public information.

[Filed 5/3/17, effective 6/28/17]
[Published 5/24/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/17.

ARC 3083C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science hereby amends Chapter 100, "Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments," Chapter 101, "Licensure of Funeral Directors, Funeral Establishments, and Cremation Establishments," Chapter 102, "Continuing Education for Funeral Directors," Chapter 103, "Disciplinary Proceedings," and Chapter 104, "Enforcement Proceedings Against Nonlicensees," Iowa Administrative Code.

These amendments provide clarification in the licensing process; update legal citations and references to the Board's Web site; rescind language duplicated in the Division's chapters of rules common to all of the licensing boards; and make other changes that are technical in nature.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3000C** on March 29, 2017. The Board did not receive oral comments on the amendments at the public hearing held April 18, 2017. Three changes have been made since publication of the Notice. Where appropriate, references to "authorizing person" have been changed to "authorized person" to maintain consistency with the Board's intended term as defined in rule 645—100.1(156). In addition, the reference to the Centers for Disease Control and Prevention was corrected in the definition of "Universal precautions" in rule 645—100.1(156), and the reference to the Federal Trade Commission Funeral Rule was corrected in subrule 101.3(3).

The Board adopted these amendments at its meeting on May 3, 2017.

This rule making does not have any fiscal impact to the state of Iowa.

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

These amendments are intended to implement Iowa Code chapters 21, 147, 142D, 144C, 156 and 272C.

These amendments will become effective on June 28, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 645—100.1(156) as follows:

645—100.1(156) Definitions.

"Alternative container" means an unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of fiberboard, pressed wood, composition materials (with or without an outside covering) or like materials which prevents the leakage of body fluid.

"Authorized person" means that person or persons upon whom a funeral director may reasonably rely when making funeral arrangements including, but not limited to, embalming, cremation, funeral services, and the disposition of human remains pursuant to ~~2008 Iowa Acts, Senate File 473, section 10~~ Iowa Code section 144C.5.

"Autopsy" means the postmortem examination of a human remains.

"Board" means the board of mortuary science.

"Body parts" means appendages or other portions of the anatomy that are from a human body.

"Burial." See *"Interment."*

"Burial transit permit" means a legal document authorizing the removal and transportation of a human remains.

"Casket" means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic or like material and ornamented and lined with fabric.

"Cemetery" means an area designated for the final disposition of human remains.

~~*"Change of ownership"* means a change of controlling interest in a funeral establishment or crematory establishment.~~

"Columbarium" means a structure, room or space in a mausoleum or other building containing niches or recesses for disposition of cremated remains.

~~*"Common carrier"* means any carrier engaged in the business of transportation of persons or property from place to place for compensation, and who offers services to the public generally.~~

"Cremated remains" means all the remains of the cremated human body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of any foreign matter including casket material, bridgework or eye glasses that were cremated with the human remains.

"Cremation" means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

"Cremation authorization form" means a form, completed and signed by a funeral director and authorized person, to accompany all human remains accepted for cremation.

"Cremation chamber" means the enclosed space within which ~~the~~ a cremation takes place.

"Cremation establishment" means ~~a place of business which~~ any person, partnership or corporation that is licensed by the board and provides any aspect of cremation services.

"Cremation permit" means a permit issued by a medical examiner allowing cremation ~~of~~ for human remains.

"Cremation room" means the room in which the cremation chamber is located.

~~*"Crematory"* means any person, partnership or corporation that performs cremation.~~

"Crypt" means a chamber in a mausoleum of sufficient size to contain casketed human remains.

"Custody" means immediate charge and control exercised by a person or an authority.

"Dead body." See *"Human remains."*

"Death certificate" means a legal document containing vital statistics pertaining to the life and death of the decedent.

"Decedent." See *"Human remains."*

"Disinterment" means to remove a human remains from ~~their~~ its place of final disposition.

~~*"Disinterment application"* means a legal document requesting authorization from the department of public health to disinter a casketed human remains or an urn containing cremated remains from its place of final disposition.~~

"Disinterment permit" means a permit from the department of public health which allows the removal of a human remains from its original place of burial, entombment or interment for the purpose of autopsy or reburial.

"Disinterment ~~application~~ permit number" means the number assigned to a disinterment ~~application~~ permit by the department of public health, giving the funeral director the authority to ~~disinter a casketed human remains or an urn containing cremated remains~~ remove a human remains from its place of final disposition.

"Embalming" means the ~~disinfecting~~ disinfection or ~~preserving~~ temporary preservation of ~~dead~~ human remains, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injections, or by surface application into or on the organs or cavities for the purpose of temporary preservation or disinfection.

"Embalming record" means a record completed by the licensed funeral director or registered intern for each body embalmed in Iowa, or otherwise prepared for disposition by the licensee. "Embalming record" includes, at a minimum, a case analysis and a detailed listing of the procedures or treatments or both performed on the deceased.

"Entombment" means to place a casketed body or an urn containing cremated remains in a structure such as a mausoleum, crypt, tomb or columbarium.

"Final disposition" means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

~~*"First call"* means the original notification to the funeral director indicating the place of death from which the human remains are to be removed.~~

"Funeral ceremony" means a service commemorating the decedent.

"Funeral director" means a person licensed by the board to practice mortuary science.

"Funeral establishment" means a place of business as defined and licensed by the board devoted to providing any aspect of mortuary science.

"Funeral rule" means the Federal Trade Commission ~~rule~~ Funeral Rule.

"Funeral services" means any services which may be used to (1) care for and prepare ~~deceased~~ human remains for burial, cremation or other final disposition; and (2) arrange, supervise or conduct the funeral ceremony or final disposition of ~~deceased~~ human remains.

"Holding facility" means an area isolated from the general public that is designated for the temporary retention of human remains.

"Human remains" means a deceased human being for which a death certificate or fetal death certificate is required.

"Interment" means to place a casketed human remains or an urn containing cremated remains in the ground.

"Intern" means a person registered by the board to practice mortuary science under the direct supervision of a preceptor certified by the board ~~pursuant to 645—subrule 101.5(2)~~.

"Mausoleum" means an aboveground structure designed for entombment of human remains.

"Medical examiner" means a public official whose primary function is to investigate and determine the cause of death when death may be thought to be from other than natural causes.

"Memorial ceremony" means a service commemorating the decedent.

"Niche" means a recess or space in a columbarium or mausoleum used for placement of cremated human remains.

~~*"Outer burial container"* means any container which is designed for placement in the ground around a casket or an urn including, but not limited to, containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.~~

"Preparation room" means a room in a funeral establishment where human remains are prepared, sanitized, embalmed or held for ceremonies and final disposition.

"Pulverization" means a process following cremation which reduces identifiable bone fragments into granulated particles.

"Removal" means the act of taking a human remains from the place of death or place where a human remains is being held~~,~~ to a funeral establishment or other designated place.

"Scattering area" means a designated area where cremated remains may be commingled with other cremated remains.

"Temporary ~~cremated remains~~ cremation container" means a durable receptacle designed for short-term retention of cremated remains.

"Their own dead" refers to the legal authority the authorized person has regarding a human remains.

"Topical disinfection" means the direct application of chemical substances on the surface of a human remains for the purpose of temporary preservation or disinfection.

"Transfer." See *"Removal."*

"Universal precautions" means a concept of care based upon the assumption that all blood and body fluids, and materials that have come into contact with blood or body fluids, are potentially infectious as prescribed by the Centers for Disease Control and Prevention (CDC).

"Urn" means a receptacle designed for permanent retention of cremated remains.

ITEM 2. Amend subrule 100.2(1) as follows:

100.2(1) Practices requiring a funeral director's license include but are not limited to:

a. Removal as specified in rule 645—100.4(142,156).

b. Embalming ~~deceased~~ human ~~beings~~ remains as specified in rule 645—100.6(156) and completing embalming records as specified in paragraph 100.11(2)*"d."*

c. Conducting funeral arrangements as specified in subrule 100.7(2).

d. Conducting funeral services when contracted to do so, including:

(1) Direct supervision of visitation and viewing.

(2) Funeral and memorial ceremonies.

(3) Committal and final disposition services.

e. ~~Cremation~~ Conducting cremation services as specified in rule 645—100.10(156).

f. Signing death certificates and performing associated duties under Iowa Code chapter 144.

ITEM 3. Amend rule 645—100.3(156) as follows:

645—100.3(156) Permanent identification tag.

100.3(1) The funeral director who assumes possession of ~~the~~ a human remains shall attach a permanent identification tag.

100.3(2) The identification tag shall initially contain, at a minimum, the name of the deceased.

100.3(3) Before final disposition, the identification tag shall contain the name of the deceased~~,~~ and the date of birth, date of death and social security number of the deceased and the name and license number of the funeral ~~home~~ establishment in charge of disposition.

100.3(4) The identification tag shall be attached to the human remains throughout the entire time the ~~body is~~ human remains are in the possession of the funeral ~~home~~ establishment and shall remain with the human remains.

ITEM 4. Amend rule 645—100.4(142,156) as follows:

645—100.4(142,156) Removal and transfer of ~~dead~~ human remains ~~and fetuses~~.

100.4(1) Removal and transfer of ~~dead~~ human remains. The funeral director shall perform the following duties upon notification of a death.

a. Comply with jurisdictional authority, with respect to ~~medico-legal~~ medicolegal responsibilities, regarding the removal of the human remains.

b. Provide signature and license number when removing a ~~dead~~ human remains from a hospital, nursing establishment or any other institution involved with the care of the public.

100.4(2) After the funeral director has assumed custody of the human remains, the funeral director may delegate the task of transferring the ~~dead~~ human remains to an unlicensed employee or agent. Prior

to transfer, the funeral director shall topically disinfect the body, secure all body orifices to retain all secretions, place the human remains in a leakproof container for transfer that will control odor and prevent the leakage of body fluids, and issue a burial transit permit.

100.4(3) A funeral director may delegate the transportation of unembalmed human remains to an unlicensed employee or agent of the funeral ~~home~~ establishment without first assuming custody and without topically disinfecting or securing body orifices if all of the following are true:

a. The transportation is to or from the medical examiner's office, or otherwise at the direction of the medical examiner;

b. The remains are placed in a leakproof container by medical examiner personnel; and

c. The employee or agent is issued a burial transit permit or other evidence of authorization.

100.4(4) An unlicensed employee or agent referred to in subrules 100.4(2) and 100.4(3) shall have completed the annual OSHA training related to blood-borne pathogens.

ITEM 5. Amend rule 645—100.5(135,144) as follows:

645—100.5(135,144) Burial transit permits. A licensed funeral director may issue a burial transit permit for the removal and transfer of ~~dead~~ human remains, and such burial transit permit shall be issued in accordance with state law and the administrative rules promulgated by the department of public health regarding burial transit permits.

ITEM 6. Amend rule 645—100.6(156) as follows:

645—100.6(156) ~~Prepreparation~~ Preparation and embalming activities.

100.6(1) The funeral director shall perform the following duties prior to and during embalming according to commonly accepted industry standards.

a. ~~Permission for embalming. The funeral director shall obtain~~ Obtain authorization for embalming from an authorized person. If permission to embalm cannot be obtained from the authorized person, the funeral director may proceed with the embalming if necessary to comply with subrule 100.6(3).

b. ~~Embalming shall be done~~ Embalm entirely in private. No one except the funeral director, intern, immediate family, or student shall be allowed in the preparation room without the written permission of the authorized person. A student must be under the direct physical supervision of the funeral director and currently enrolled and attending a program of mortuary science which is recognized by the board to be allowed in the preparation room without written permission during the embalming ~~without written permission~~.

c. ~~The human remains shall be properly covered~~ Keep the human remains properly covered at all times.

d. Conduct a preembalming case analysis of the human remains. Recognize the potential chemical effects on the body and select the proper embalming chemicals based upon the analysis.

e. Position the human remains on the preparation table and pose the facial features.

f. Select points of drainage and injection, and raise the necessary vessels.

g. ~~Embalming shall include~~ Embalm by arterial and cavity injection of embalming chemicals. If the condition of the human remains does not allow arterial and cavity injection of embalming chemicals, topical embalming, using appropriate chemicals and procedures, shall be performed.

h. ~~Once the arterial and cavity injection of the embalming chemicals is complete, evaluate~~ Evaluate the distribution of the embalming chemicals and perform treatment for discoloration, vascular difficulties, decomposition, dehydration, purge and close any incisions once the arterial and cavity injection of the embalming chemicals is complete.

100.6(2) Postembalming activities. The funeral director shall perform the following duties at the conclusion of the embalming activities if necessary.

a. Pack or otherwise secure all body orifices with material which will absorb and retain all secretions.

b. Apply chemicals topically and perform hypodermic treatments.

c. Bathe, disinfect and reposition the human remains.
d. Clean and disinfect the embalming instruments, equipment and preparation room.
e. Perform any restorative treatments.
f. Select and apply the appropriate cosmetic treatments.
g. Prepare the human remains for viewing.

100.6(3) Care of the unembalmed human remains.

a. Embalming may be omitted provided that interment or cremation is performed within 72 hours after death or within 24 hours of taking custody if ~~the~~ a human remains ~~were~~ was previously in the custody of others, whichever is longer.

b. If refrigeration is utilized, embalming or final disposition may be extended up to 72 hours longer than the maximum period provided in paragraph 100.6(3)*"a."* The body must be kept between 38 and 42 degrees Fahrenheit.

c. If viewing of the unembalmed human remains is requested, the human remains shall be topically disinfected and all body orifices shall be packed or otherwise secured with material which will absorb and retain all secretions.

ITEM 7. Amend paragraph **100.7(2)"b,"** introductory paragraph, as follows:

b. Present, discuss and explain the mandated ~~Federal Trade Commission~~ FTC price lists and assist or provide the consumer with:

ITEM 8. Amend rule 645—100.8(142,156) as follows:

645—100.8(142,156) Unclaimed ~~dead~~ human remains for scientific use.

100.8(1) A human remains is unclaimed when:

a. The decedent did not express a desire to be interred, entombed or cremated.

b. Relatives or friends of the decedent did not request that the decedent's human remains be interred, entombed or cremated.

100.8(2) Friend distinguished from casual acquaintance. A friend shall be distinguished from a casual acquaintance by the friend's having been closely associated with the decedent during the decedent's lifetime.

100.8(3) Delivery of human remains for scientific purposes. The funeral director, the medical examiner or managing officer of a public health institution, hospital, county home, penitentiary or reformatory shall notify the ~~state~~ Iowa department of public health as soon as any unclaimed human remains~~,~~ which ~~are unclaimed and~~ may be suitable for scientific purposes~~,~~ shall come into ~~their~~ the person's custody.

100.8(4) Department instructions. When the department of public health receives notice, the funeral director shall be instructed as to the proper disposition of ~~the~~ a human remains.

100.8(5) Expenses incurred by funeral director. The expenses incurred by the funeral director for the transportation of ~~the~~ a human remains to a medical college shall be paid by the medical college receiving the human remains.

ITEM 9. Amend rule 645—100.9(144) as follows:

645—100.9(144) Disinterments. A funeral director in charge of a disinterment shall ensure that the disinterment is performed in accordance with rules promulgated by the Iowa department of public health and shall first secure a disinterment ~~application~~ permit issued by the Iowa department of public health.

~~1.~~ **100.9(1)** No person shall disinter a human remains or cremated remains unless the funeral director~~,~~ in charge of the disinterment~~,~~ has a numbered disinterment ~~application~~ permit which has been issued by the department of public health or by an order of the district court of the county in which the human remains or cremated remains are interred or entombed.

~~2.~~ **100.9(2)** All disinterment ~~applications~~ permits shall be requested and provided by the department of public health.

~~3.~~ **100.9(3)** All disinterment ~~applications~~ permits shall be signed by the authorizing person.

~~4.~~ **100.9(4)** Disinterment ~~applications~~ permits shall be furnished upon request from the department of public health and will remain valid for 30 days after issuance.

~~5.~~ **100.9(5)** Disinterment ~~numbers~~ permits will only be issued to the funeral director, and the disinterment must be done under the direct supervision of the funeral director.

~~6.~~ **100.9(6)** Disinterment ~~applications and numbers~~ permits shall be required for any relocation of a human remains or cremated remains from the original site of interment or entombment.

~~7.~~ **100.9(7)** No disinterment ~~application or number~~ permit is necessary to remove a human remains or cremated remains from a holding facility for interment or entombment in the same cemetery where being temporarily held.

100.9(8) A funeral director may await a court order before proceeding with disinterment if the funeral director is aware of a dispute among:

a. Persons who are members of the same class of persons described in 641—subrule 97.14(4) as having authority to control the human remains; or

b. Persons who are authorized pursuant to 641—subrule 97.14(4) and the executor named in the decedent's will or personal representative appointed by the court.

ITEM 10. Amend rule 645—100.10(156) as follows:

645—100.10(156) Cremation of human remains ~~and fetuses~~.

100.10(1) *Record keeping.*

a. Delivery receipt.

(1) When a human remains is delivered to a ~~crematory~~ cremation establishment, the ~~crematory~~ cremation establishment shall furnish to the delivery person a delivery receipt containing:

~~(1)~~ 1. The name, address, age, gender, and cause of death of the decedent whose human remains ~~that~~ are delivered to the ~~crematory~~ cremation establishment.

~~(2)~~ 2. The date and time of delivery and the type of container that contains the human remains.

~~(3)~~ 3. If applicable, the name of the funeral director who sent the human remains and the name and license number of the funeral director's associated funeral establishment.

~~(4)~~ 4. The signature of the person who delivered the human remains.

~~(5)~~ 5. The signature of the person receiving the human remains on behalf of the ~~crematory~~ cremation establishment.

~~(6)~~ 6. The name and business address of the ~~crematory~~ cremation establishment.

(2) The ~~crematory~~ cremation establishment shall retain a copy of ~~this~~ the delivery receipt in its permanent records.

b. Receiving receipt.

(1) The ~~crematory authority~~ cremation establishment shall furnish to any person who receives the cremated remains from the ~~crematory~~ cremation establishment a receiving receipt containing:

~~(1)~~ 1. The name of the decedent whose cremated remains are released from the ~~crematory~~ cremation establishment.

~~(2)~~ 2. The date and time when the cremated remains were released from the ~~crematory~~ cremation establishment.

~~(3)~~ 3. The name of the person to whom the cremated remains are released and the name and license number of the funeral establishment, cemetery, family or other person or entity with which ~~they are~~ that person is affiliated.

~~(4)~~ 4. The signature of the person who receives the cremated remains.

~~(5)~~ 5. The signature of the person who released the cremated remains on behalf of the ~~crematory~~ cremation establishment.

~~(6)~~ 6. The name of the ~~crematory~~ cremation establishment operator and the date and time of the cremation.

(2) The ~~crematory~~ cremation establishment shall retain a copy of ~~this~~ the receiving receipt in its permanent records.

c. Permanent record. A ~~crematory~~ cremation establishment shall maintain at its place of business a permanent record that includes the following:

(1) Name of the deceased person.
(2) Date and time of the cremation.
(3) Copies of the delivery receipt and the receiving receipt.
(4) Disposition of the cremated remains.
(5) Cremation authorization.
(6) ~~Permit for cremation from a medical examiner~~ Cremation permit if required in the jurisdiction of death.

100.10(2) *Employment of a funeral director by a ~~crematory~~ cremation establishment.* No aspect of these rules shall be construed to require a funeral director to supervise or perform any functions at a ~~crematory~~ cremation establishment not otherwise required by law to be performed by a funeral director. The ~~crematory~~ cremation establishment shall contract only with a licensed funeral establishment and shall not contract directly with the general public.

100.10(3) *Authorizing person and preneed cremation arrangements.* The authorized person has legal authority and may make decisions regarding the final disposition of the decedent.

100.10(4) *Authorization to cremate.*

a. The ~~crematory~~ cremation establishment shall have the authority to cremate human remains upon the receipt of the following:

(1) Cremation authorization form signed by the ~~authorizing~~ authorized person. The cremation authorization form shall contain the following:

1. The name, address, age and gender of the decedent whose human remains are to be cremated.
2. The date, time of death and cause of death of the decedent.
3. The name and license number of the funeral establishment and of the funeral director who obtained the cremation authorization form signed by the ~~authorizing~~ authorized person.
4. The signature of the funeral director.
5. The name and address of the ~~crematory~~ cremation establishment authorized to cremate ~~the~~ a human remains.
6. The name and signature of the ~~authorizing~~ authorized person granting permission to cremate the human remains and the ~~authorizing~~ authorized person's relationship to the decedent.
7. A representation that the ~~authorizing~~ authorized person has the right to authorize the cremation of the decedent in accordance with this rule.
8. A representation that in the event there is another person who has superior priority right to that of the ~~authorizing~~ authorized person, the ~~authorizing~~ authorized person has made all reasonable efforts to contact that person and has no reason to believe that the person would object to the cremation of the decedent.
9. A representation that ~~the~~ a human remains ~~do~~ does not contain any material or implants that may be potentially hazardous to equipment or persons performing the cremation.
10. A representation that the ~~authorizing~~ authorized person has made a positive identification of the decedent or, if the ~~authorizing~~ authorized person is unavailable or declines, there are alternative means of positive identification.
11. The name of the person, funeral establishment or funeral establishment's designee to which the cremated remains are to be released.
12. The manner of the final disposition of the cremated remains.
13. A listing of all items of value and instructions for their disposition.

(2) ~~Permit for cremation from a medical examiner~~ The cremation permit if required in the jurisdiction of death.

(3) Any other documentation required by this state.

b. If the ~~authorizing~~ authorized person is not available to execute the cremation authorization form in person, the funeral director may accept written authorization by facsimile, E-mail, or such alternative written or electronic means the funeral director reasonably believes to be reliable and credible.

c. The ~~authorizing~~ authorized person may revoke the authorization and instruct the funeral director or funeral establishment to cancel the cremation. The ~~crematory~~ cremation establishment shall honor any

instructions from a funeral director or funeral establishment under this rule if the ~~crematory~~ cremation establishment receives instructions prior to beginning the cremation.

100.10(5) *Cremation procedures.*

a. A ~~crematory~~ cremation establishment shall cremate human remains within 24 hours of issuance of the delivery receipt as defined in subrule 100.10(1).

b. No ~~crematory~~ cremation establishment shall cremate human remains when it has actual knowledge that the human remains contain a pacemaker or have any other implants or materials which will present a health hazard to those performing the cremation and processing and pulverizing the cremated remains.

c. No ~~crematory~~ cremation establishment shall refuse to accept human remains for cremation because such human remains are not embalmed.

d. Whenever a ~~crematory~~ cremation establishment is unable or unauthorized to cremate human remains immediately upon taking custody of the remains, the ~~crematory~~ cremation establishment shall place the human remains in a holding facility in accordance with the ~~crematory~~ cremation establishment rules and regulations and within the parameters of rules 645—100.5(135,144) and 645—100.6(156).

e. No ~~crematory~~ cremation establishment shall accept human remains unless they are delivered to the ~~crematory~~ cremation establishment in a container which prevents the leakage of body fluids.

f. Under no circumstances shall an alternative container or casket be opened at the cremation establishment except to facilitate proper cremation.

g. The container in which ~~the~~ a human remains ~~are~~ is delivered to the ~~crematory~~ cremation establishment shall be cremated with the human remains or safely destroyed.

h. The simultaneous cremation of the human remains of more than one person within the same cremation chamber, without the prior written consent of the authorized person, is prohibited. Nothing in this rule, however, shall prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the ~~crematory~~ cremation establishment from multiple sources, or the use of cremation equipment that contains more than one cremation chamber.

i. No unauthorized person shall be permitted in the holding facility or cremation room while any human remains are being held there awaiting cremation, being cremated, or being removed from the cremation chamber.

j. A ~~crematory~~ cremation establishment shall not allow removal of any dental gold, body parts, organs, or any item of value prior to or subsequent to a cremation without previously having received specific written authorization from the ~~authorizing~~ authorized person and written instructions for the delivery of these items to the ~~authorizing~~ authorized person.

k. Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process shall be removed from the cremation chamber.

l. If all of the recovered cremated remains will not fit within the receptacle that has been selected, the remainder of the cremated remains shall be returned to the ~~authorizing~~ authorized person or this person's designee in a separate container. The ~~crematory~~ cremation establishment shall not return to an authorized person or this person's designee more or less cremated remains than were removed from the cremation chamber.

m. A ~~crematory~~ cremation establishment shall not knowingly represent to an authorized person or this person's designee that a temporary cremation container or urn contains the cremated remains of a specific decedent when it does not.

n. Cremated remains shall be shipped only by a method that has an internal tracing system available and that provides a receipt signed by the person accepting delivery.

o. A ~~crematory~~ cremation establishment shall maintain an identification system that shall ensure the identity of human remains in ~~its~~ the cremation establishment's possession throughout all phases of the cremation process. A noncombustible tag or disc that includes the name and license number of the ~~crematory~~ cremation establishment and the city and state where the ~~crematory~~ cremation establishment is

located shall be attached to the plastic bag with the cremated remains or placed in amongst the cremated remains.

100.10(6) *Disposition of cremated remains.* If responsible, the funeral director shall supervise the final disposition of the cremated remains as follows:

a. Cremated remains may be disposed of by placing them in a grave, crypt, or niche~~;~~ or by scattering them in a scattering area as defined in these rules~~;~~, or they may remain in the personal care and custody of the authorized person. After supervising the transfer of cremated remains to the authorized person or place of final disposition, the funeral director shall be discharged.

b. Upon the completion of the cremation process, the ~~crematory~~ cremation establishment shall release the cremated remains to the funeral establishment or the authorized person or the authorized person's designee. Upon the receipt of the cremated remains, the individual receiving them may transport them in any manner in this state without a burial transit permit and may dispose of them in accordance with this rule. After releasing the cremated remains, the ~~crematory~~ cremation establishment shall be discharged from any legal obligation or liability concerning the cremated remains.

c. If, after a period of 60 days from the date of the cremation, the authorizing person or designee has not instructed the funeral director to arrange for the final disposition of the cremated remains, the funeral director may dispose of the cremated remains in any manner permitted by this rule. The funeral establishment, however, shall keep a permanent record identifying the site of final disposition. The authorizing person shall be responsible for reimbursing the funeral establishment for all reasonable expenses incurred in disposing of the cremated remains. Any entity that was in possession of cremated remains prior to the effective date of these rules may dispose of them in accordance with this rule.

d. Except with the express written permission of the authorizing person, no funeral director or cremation establishment shall:

(1) Dispose of cremated remains in a manner or in a location so that the cremated remains are commingled with those of another person. This prohibition shall not apply to the scattering of cremated remains in an area located in a cemetery and used exclusively for those purposes.

(2) Place cremated remains of more than one person in the same temporary cremation container or urn.

100.10(7) *Scope of rules.* These rules shall be construed and interpreted as a comprehensive cremation statute, and the provisions of these rules shall take precedence over any existing laws containing provisions applicable to cremation, but that do not specifically or comprehensively address cremation.

~~**100.10(8)** *Establishment rule.* Rescinded IAB 4/2/03, effective 5/7/03.~~

ITEM 11. Amend subrule 100.11(1) as follows:

100.11(1) At a minimum, the following information, if applicable, relating to each human remains which enters the custody of the establishment/licensee shall be maintained as the permanent record of licensed activity:

a. Name of the deceased;

b. Date, time, and place of death (institution or other place, city, state, zip);

c. Name and address of the person or funeral establishment to whom ~~the dead body or fetus~~ a human remains is released;

d. Date and from whom the funeral director assumed custody, including the name of the institution or other place of death releasing ~~the dead human body or fetus~~ a human remains;

e. Date, time, and name of the licensed funeral director or registered intern completing embalming or other preparation for final disposition;

f. Date, place and method of final disposition of ~~the dead body or fetus~~ a human remains.

ITEM 12. Amend rule **645—101.1(156)**, definition of "Reactivate," as follows:

"Reactivate" or *"reactivation"* means the process as outlined in rule ~~645—101.18(17A,147,272C)~~ 645—101.11(17A,147,272C) by which an inactive license is restored to active status.

ITEM 13. Adopt the following **new** definitions in rule **645—101.1(156)**:

"Change of ownership" means a change of controlling interest ((1) an interest in a partnership of greater than 50 percent; or (2) greater than 50 percent of the issued and outstanding shares of a stock of a corporation) in a funeral establishment or cremation establishment.

"Full time" means a minimum of a 35-hour work week.

"Outer burial container" means any container which is designed for placement in the ground around a casket or an urn including, but not limited to, containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.

ITEM 14. Amend rule 645—101.2(156) as follows:

645—101.2(156) Requirements for licensure. ~~The following criteria shall apply to licensure:~~

101.2(1) The applicant shall be eligible to apply for a license to practice mortuary science by the board pursuant to subrule 101.2(2) when the applicant has completed the educational requirements and examination requirements, followed by a completed internship as prescribed below, in the following alphabetical order:

a. Educational qualifications.

(1) A minimum of 60 hours of college credit as indicated on the transcript from a regionally accredited college or university with a minimum of a 2.0 or "C" grade point average. The 60 college semester hours shall not include any technical mortuary science course; and

(2) A program in mortuary science from a school accredited by the American Board of Funeral Service Education; and

(3) A college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed services.

b. Examination requirements. The board shall accept a certificate of examination issued by the International Conference of Funeral Service Examining Boards, Inc., indicating a passing score on both the arts and sciences portions of the examination.

c. Internship requirements as outlined in rule 645—101.3(147,156).

~~**101.2(1)**~~ **101.2(2)** The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site ~~(http://www.idph.state.ia.us/licensure)~~ (http://idph.iowa.gov/Licensure/Iowa-Board-of-Mortuary-Science/Licensure) or directly from the board office. All applications shall be sent to Board of Mortuary Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

~~**101.2(2)**~~ *a.* The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

~~**101.2(3)**~~ *b.* Each application shall be accompanied by the appropriate fees payable to the Board of Mortuary Science. The fees are nonrefundable.

~~**101.2(4)**~~ *c.* No application will be considered by the board until official copies of academic transcripts showing the completion of training in a college of mortuary science approved by the ~~Iowa~~ board ~~of mortuary science~~ have been sent directly from the school to the board.

~~**101.2(5)**~~ *d.* Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

~~**101.2(6)**~~ *e.* Incomplete applications that have been on file in the board office for more than two years shall be:

~~*a.*~~ (1) Considered invalid and shall be destroyed; or

~~*b.*~~ (2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

101.2(3) Foreign-trained funeral directors shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310)258-9451, Web site www.ierf.org, or e-mail at info@ierf.org. The

professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

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

c. Receive a final determination from the board regarding the application for licensure.

d. Successfully complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

ITEM 15. Rescind rules **645—101.3(156)** and **645—101.4(156)**.

ITEM 16. Renumber rules **645—101.5(147,156)** to **645—101.8(156)**, **645—101.10(156)**, **645—101.13(272C)** to **645—101.15(17A,147,272C)**, **645—101.18(17A,147,272C)** and **645—101.19(17A,147,272C)** as **645—101.3(147,156)** to **645—101.12(17A,147,272C)**.

ITEM 17. Amend renumbered rule 645—101.3(147,156) as follows:

645—101.3(147,156) Internship and preceptorship.

101.3(1) *Internship.*

a. The intern must serve a minimum of one year of internship under the direct supervision of an Iowa board-certified preceptor. The beginning and ending dates of the internship shall be indicated on the internship certificate. The intern shall engage in the practice of mortuary science only during the time indicated on the internship certificate.

b. The intern shall, during the internship, be a full-time employee with the funeral establishment at the site of internship except as provided in paragraph ~~101.5(2)*"j."*~~ 101.3(2)*"i."*

c. No licensed funeral director shall permit any person in the funeral director's employ or under the funeral director's supervision or control to serve an internship in funeral directing unless that person has a certificate of registration as a registered intern from the department of public health. The registration shall be posted in a conspicuous place in the intern's primary place of practice.

~~*d.* No licensed funeral director or licensed funeral establishment shall have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two interns per funeral establishment.~~

~~*e.*~~ *d.* Registered interns shall not advertise or hold themselves out as funeral directors or use the degree F.D. or any other title or abbreviation indicating that the intern is a funeral director.

~~*f.*~~ *e.* The intern shall, during the internship, complete the requirements outlined in ~~101.5(3)~~ subrule 101.3(3), including to embalm not fewer than 25 human remains and direct or assist in the direction of not fewer than 25 funerals under the direct supervision of the certified preceptor and to submit reports on forms furnished by the department of public health. Work on the first 5 embalming cases, first 5 funeral arrangements, and first 5 funeral or memorial services must be completed in the physical presence of the preceptor. The first 12 embalming cases and the first 12 funeral case reports must be completed and submitted by the completion of the sixth month of the internship.

~~*g.*~~ *f.* Before being eligible for licensure, the intern must have filed the 25 completed embalming and funeral directing case reports and a 6-month and a 12-month evaluation form with the department of public health. These reports shall be answered in full and signed by both the intern and preceptor.

~~*h.*~~ *g.* When, for any valid reason, the board determines that the education a registered intern is receiving under the supervision of the present preceptor might be detrimental to the intern or the profession at large, the intern may be required to serve the remainder of the internship under the supervision of a licensed funeral director who is approved by the board.

~~*i.*~~ *h.* The length of an internship may be extended if the board determines that the intern requires additional time or supervision in order to meet the minimum proficiency in the practice of mortuary science.

~~*j.*~~ *i.* The board views a one-year internship completed in a consecutive 12-month period as the best training option. If an internship is interrupted, the internship must be completed within 24 months of the date it started in order to be readily accepted by the board. Internships that are not completed

within 24 months shall be preapproved by the board on such terms as the board deems reasonable under the circumstances. The board may require any or all of the following:

(1) Completion of a college course or continuing education course covering mortuary science laws and rules;

(2) Additional case reports;

(3) Extension of an internship up to an additional 12 months depending on such factors as the number of months completed during the internship, length of time that has lapsed since the intern was actively involved in the internship program, and the experience attained by the intern.

~~*k.*~~ *j.* Application for change of preceptor or any other alteration must be made in writing and approval granted by the board before the status of the intern is altered.

~~*l.*~~ *k.* The intern shall complete on a form provided by the board a confidential evaluation of the preceptorship program at the end of the internship. This form shall be submitted before ~~the~~ a funeral ~~director's~~ director license is issued to the intern.

~~*m.*~~ *l.* The intern must be approved and licensed following a successful internship before the intern may practice mortuary science.

101.3(2) *Preceptorship.*

a. A preceptor must have completed a training course within five years prior to accepting an intern. This training course shall cover Iowa law and rule content areas~~,~~ including, but not limited to, Iowa law and rules governing licensure and the practice of mortuary science and human resource issues. The training course may be counted toward the continuing education hours required for the licensure biennium in which the training course was completed.

b. Any duly Iowa-licensed funeral director who has been practicing for a minimum of five years and who has not had any formal disciplinary action within the past five years with the board of mortuary science and has completed a preceptor training course detailed in paragraph ~~101.5(2)*"a"*~~ 101.3(2)*"a"* will be eligible to be a preceptor.

c. The preceptor shall be affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

~~*d.* The preceptor is required to file a progress report of the intern that has been signed by both the preceptor and the intern on a board-prescribed form. The 6-month progress report form shall be submitted to the board by the end of the sixth month. The 12-month progress report form shall be submitted to the board by the end of the twelfth month.~~

~~*e.*~~ *d.* The preceptor shall certify that the intern engages in the practice of mortuary science only during the time frame designated on the official intern certificate.

~~*f.*~~ *e.* A preceptor's duties shall include the following:

(1) Ensure the intern completes the training program outlined in ~~101.5(3)~~ subrule 101.3(3);

(2) Be physically present and supervise the first five embalming cases, first five funeral arrangements, and first five funeral or memorial services;

(3) Familiarize the intern in the areas specified by the preceptor training outline;

(4) Read, add appropriate comments to, and sign each of the 25 embalming reports and the 25 funeral directing reports completed by the intern;

(5) Complete a written six-month report of the intern on a form provided by the board. This report is to be reviewed with and signed by the intern and submitted to the board before the end of the seventh month; and

(6) At the end of the internship, complete a confidential evaluation of the intern on a form provided by the board. This evaluation shall be submitted within two weeks of the end of the internship. The 12-month report shall be submitted to the board for review and approval prior to the board's approval of the intern for licensure.

~~*g.*~~ *f.* Failure of a preceptor to fulfill the requirements set forth by the board, including failure to remit the required six-month progress report, as well as the final evaluation, shall result in an investigation of the preceptor by the board and may result in actions which may include, but not be limited to, the loss of preceptor status for current and future interns or discipline or both.

~~*h.*~~ *g.* If a preceptor does not serve the entire year, the board will evaluate the situation; and if a certified preceptor is not available, a licensed funeral director may serve with the approval of the board.

~~*i.*~~ *h.* No licensed funeral director or licensed funeral establishment shall have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two interns per funeral establishment.

~~*j.*~~ *i.* With prior board approval, an intern may serve under the supervision of more than one preceptor under the following terms and conditions:

(1) A single preceptor must act in the role of the primary preceptor.

(2) The primary preceptor is responsible for coordinating all intern training and activities.

(3) The intern shall be a full-time employee of the funeral establishment of the primary preceptor; however, compensation may be shared between preceptors.

(4) The primary preceptor may make arrangements with a maximum of two additional preceptors to share preceptor responsibilities for such purposes as providing an intern with a higher volume practice or a broader range of intern experiences.

(5) Each preceptor shall be individually responsible for directly supervising the intern's activities performed under the preceptor's guidance, but the primary preceptor remains responsible for coordinating the intern's activities and submitting all forms to the board.

101.3(3) *Intern training requirements.*

a. The board-approved preceptor shall ensure that the intern is knowledgeable of each of the following items during the internship:

(1) The requirements of the Federal Trade Commission Funeral Rule.

(2) The requirements of the Occupational Safety and Health Act.

(3) The requirements of the Americans ~~With~~ with Disabilities Act.

(4) The benefits of the Social Security and Veterans Health Administrations.

(5) The requirements of Iowa funeral law and forms (for example, preneed in Iowa Code chapter 523A, death certificates and Iowa burial transit permits in Iowa Code chapter 144, authorized person in Iowa Code chapter 144C, Iowa department of public health's law and rules governing funeral practice, and the board's laws and rules).

b. The board-approved preceptor shall ensure that the intern performs each of the following under the preceptor's direct supervision:

(1) Assists with or performs a minimum of 10 transfers of human remains.

(2) Performs 25 embalmings of human remains to include:

1. Obtaining permission to embalm.
2. Placement of human remains on preparation table.
3. Pre-embalming analysis.
4. Primary disinfection.
5. Setting features.
6. Selection of injection/drainage sites and raising those vessels.
7. Selection and mixing of embalming chemicals and operation of the embalming machine.
8. Injection and drainage methods.
9. Cavity treatment.
10. Suturing techniques.

(3) Prepares a minimum of 10 human remains for viewing to include:

1. Dressing.
2. Cosmetizing.
3. Casketing.

(4) Assists with cremation procedures to include:

1. Contacting the medical examiner.
2. Completing required cremation forms.
3. Preparing human remains for cremation.

(5) Makes complete funeral arrangements with a minimum of 10 families to include each of the following, as applicable:

1. Presentation of funeral goods, products and services.
2. Presentation of payment options for families.
3. Contacting third-party suppliers of goods and services, such as clergy, cemetery personnel, outer burial container provider, ~~crematory~~ cremation establishment, florist, and musicians.
4. Completing the obituary.
5. Presentation of general price list and associated price lists.
6. Preparation and presentation of statement of funeral goods and services.

(6) Coordinates, at a minimum, 10 visitations to include:

1. Preparing the chapel, visitation room or other facility.
2. Setting up floral arrangements.
3. Setting up register book and memorial folders or prayer cards.

(7) Directs a minimum of 25 funerals or memorial services to include, as applicable:

1. Greeting funeral attendees.
2. Assisting casket bearers.
3. Preparing for funeral procession.
4. Driving a vehicle in procession.
5. Assisting at graveside committal.
6. Transporting flowers.
7. Coordinating with officiant and family.

ITEM 18. Amend renumbered rule 645—101.5(156) as follows:

645—101.5(156) Funeral establishment license or cremation establishment license ~~or both establishment licenses.~~

101.5(1) A place of business devoted to providing any aspect of mortuary science or cremation services shall hold an establishment license issued by the board. An establishment license shall not be issued more than 30 days prior to the opening of a new establishment.

a. A funeral establishment~~,~~ or a cremation establishment~~, or a combined funeral and cremation establishment~~ shall not be operated until it has obtained a license from the board. ~~Such an~~ Each establishment shall timely renew the license in order to continue operations.

b. A funeral or cremation establishment shall surrender its license to the board if ~~it~~ the establishment fails to engage in or ceases to engage in the business for which the license was issued, pursuant to Iowa Code section 156.15(2)*"d."*

c. A funeral or cremation establishment license is not transferable or assignable.

d. A change in ownership shall require the issuance of a new license. A change in ownership shall be reported to the board prior to the date ownership will change or, in the case of change of ownership by death or other unexpected event, within 30 days following change of ownership. The board may request legal proof of the ownership transfer. ~~A change in ownership shall be defined as any change of controlling interest in any corporation or other business entity.~~

e. An establishment license shall be issued for a specific physical location. A change in location or site of an establishment shall require the submission of an application for a new license and payment of the fee required by 645—subrule ~~105.1(9)~~ 5.9(9). A new establishment license must be issued prior to the commencement of business in a new location.

f. A change in the name of an establishment shall be reported to the board within 30 days. The establishment owner shall pay the fee for reissuing the ~~certificate~~ license.

g. A change in address or of the funeral director in responsible charge shall be reported to the board within 30 days.

h. An establishment shall have an employment or other relationship with one or more licensed funeral directors who shall perform all mortuary science services for which licensure as a funeral director is required by Iowa Code chapter 156. A cremation establishment is not, however, required to employ or contract with a funeral director on an ongoing basis because a cremation establishment shall not offer services directly to the general public. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment shall designate the funeral

director who shall be in responsible charge of all mortuary science services performed at the funeral establishment. The funeral establishment shall report to the board any change of the funeral director in responsible charge within 30 days of the change.

~~*i.* Rescinded IAB 10/8/08, effective 11/12/08.~~

~~*j.*~~ *i.* The board shall not routinely issue more than one establishment license for a single location, but the board may do so if the multiple applicants provide proof, satisfactory to the board, that the establishments are wholly separate except for the sharing of facilities. If the board issues more than one establishment license for a single location, the licensees shall ensure that the public will not be confused or deceived as to the establishment with which the public is interacting. A facility may have a funeral establishment license and a separate cremation establishment license at a single location.

~~*k.*~~ *j.* The establishment license shall be displayed in a conspicuous place at the location of the establishment.

~~*l.*~~ *k.* Failure to comply with any of these rules shall constitute grounds for discipline pursuant to 645—Chapter 103 or civil penalties for unlicensed practice pursuant to 645—Chapter 104.

101.5(2) A funeral establishment~~,~~ or cremation establishment~~, or both establishments~~ shall be subject to applicable local, state and federal health and environmental requirements and shall obtain all necessary licenses and permits from the agencies with jurisdiction.

101.5(3) License application. An application for a funeral establishment license~~,~~ or a cremation establishment license~~, or both establishment licenses~~ shall be in writing on forms furnished by the board and shall be accompanied by the funeral or cremation establishment fee. If there is both a funeral establishment and a cremation establishment at the same location, two establishment license applications will be required, along with the payment of two establishment license fees. The application shall contain all of the following:

a. The name, mailing address and telephone number of the applicant.

b. The physical location of the establishment.

c. The mailing address, telephone number, fax number and E-mail address of the establishment.

d. The name, home address and telephone number of the individual in charge who has the authority and responsibility for the establishment's compliance with laws and rules pertaining to the operation of the establishment.

e. The name and address of all owners and managers of the establishment (e.g., sole proprietor, partner, director, officer, managing partner, member, or shareholder with 10 percent or more of the stock).

f. The legal name of the establishment and all trade names, assumed names, or other names used by the establishment.

g. The signature of the responsible authority at the site of the establishment and an acknowledgment of the funeral director in responsible charge of mortuary science services at the funeral establishment that the funeral director is aware of and consents to the designation.

h. The names and license numbers of all funeral directors employed by or associated with the establishment through contract or otherwise who provide mortuary science services at or for the establishment. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment shall designate the funeral director who shall be in responsible charge of all mortuary science services performed at the funeral establishment. No funeral establishment shall be issued a license if it fails to designate the funeral director in responsible charge of the mortuary science services to be performed at the establishment.

i. All felony or misdemeanor convictions of the applicant and all owners and managing officers of the applicant (except minor traffic offenses with fines of less than $500).

j. All disciplinary actions against any professional or occupational license of the applicant by any jurisdiction including, but not limited to, disciplinary action by the Iowa insurance division under Iowa Code chapter 523A or 523I, or action by the Federal Trade Commission.

k. Further information that the board may reasonably require, such as whether the establishment includes a preparation room.

ITEM 19. Amend renumbered rule 645—101.6(156) as follows:

645—101.6(156) Licensure by endorsement. ~~An applicant who has been a licensed funeral director under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. Applicants licensed before 1980 are exempt from showing a passing grade on the national board examination. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:~~

~~**101.6(1)** Submits to the board a completed application.~~

~~**101.6(2)** Pays the licensure fee.~~

~~**101.6(3)** Shows evidence of licensure requirements that are similar to those required in Iowa.~~

~~**101.6(4)** Provides official copies of the academic transcripts showing the completion of a mortuary science program accredited by the American Board of Funeral Service Education.~~

~~**101.6(5)** Provides official transcript of grades showing 60 semester hours from a regionally accredited college or university with a minimum of a 2.0 or "C" grade point average.~~

~~**101.6(6)** Completes a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas, including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.~~

~~**101.6(7)** Furnishes certified evidence of:~~

~~*a.* Two or more years of actual practice as a licensed funeral director in the state from which the applicant desires to endorse; or~~

~~*b.* Having met requirements substantially equivalent to those in 101.5(1)*"g"* and 101.5(3).~~

~~**101.6(8)** Was issued the initial license by endorsement within six months of the birth month and will not be required to renew the license until the fifteenth day of the birth month two years later. The new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license was originally issued.~~

101.6(1) The applicant shall be eligible to apply for a license to practice mortuary science issued by the board when the applicant has completed the educational qualifications, examination requirements, and documentation of experiences as prescribed below:

a. Educational qualifications.

(1) A minimum of 60 hours of college credit as indicated on the transcript from a regionally accredited college or university with a minimum of a 2.0 or "C" grade point average. The 60 college semester hours shall not include any technical mortuary science course; and

(2) A program in mortuary science from a school accredited by the American Board of Funeral Service Education; and

(3) A college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed services.

b. Examination requirements. The board shall accept a certificate of examination issued by the International Conference of Funeral Service Examining Boards, Inc., indicating a passing score on both the arts and sciences portions of the examination.

c. Documentation of experience. The applicant shall furnish certified evidence of:

(1) Two or more years of actual practice as a licensed funeral director in the state from which the applicant desires to endorse; or

(2) Having met requirements substantially equivalent to those in paragraph 101.3(1)*"f"* and subrule 101.3(3).

101.6(2) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://idph.iowa.gov/Licensure/Iowa-Board-of-Mortuary-Science/Licensure) or directly from the board office. All applications shall be sent to Board of Mortuary Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

a. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

b. Each application shall be accompanied by the appropriate fees payable to the Board of Mortuary Science. The fees are nonrefundable.

c. No application will be considered by the board until official copies of academic transcripts showing the completion of training in a college of mortuary science approved by the board have been sent directly from the school to the board.

d. Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

e. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

~~101.6(9)~~ **101.6(3)** ~~Provides~~ The applicant shall provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

~~101.6(10)~~ **101.6(4)** ~~Satisfies~~ The applicant shall satisfy the provisions of ~~101.18(3)~~ subrule 101.11(3), if the applicant is not actively licensed in another jurisdiction.

ITEM 20. Amend renumbered rule 645—101.7(156), catchwords, as follows:

645—101.7(156) ~~License renewal~~ Renewal of funeral director license.

ITEM 21. Amend renumbered subrule 101.7(6) as follows:

101.7(6) 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 ~~105.1(3)~~ 5.9(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 22. Amend renumbered rule 645—101.8(272C), catchwords, as follows:

645—101.8(272C) Renewal of a funeral establishment license or a cremation establishment license ~~or both establishment licenses~~.

ITEM 23. Amend renumbered rule 645—101.9(272C) as follows:

645—101.9(272C) Inactive funeral establishment license or cremation establishment license ~~or both establishment licenses~~.

101.9(1) If the renewal application and fee are not postmarked within 30 days after the license expiration date, the funeral establishment license or cremation establishment license is inactive. To reactivate a funeral establishment license or ~~a~~ cremation establishment license, the reactivation application and fee shall be submitted to the board office.

101.9(2) A funeral establishment or a cremation establishment that has not renewed the funeral establishment license or cremation establishment license within the required time frame will have an inactive license and shall not provide mortuary science services until the license is reactivated.

ITEM 24. Amend renumbered rule 645—101.10(17A,147,272C) as follows:

645—101.10(17A,147,272C) ~~License reinstatement~~ Reinstatement of a funeral establishment license or a cremation establishment license. For a funeral or cremation establishment license that has been revoked, suspended, or voluntarily surrendered, the owner must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with ~~645—101.14(272C)~~ rule 645—101.9(272C) prior to offering mortuary science services from that establishment in this state.

ITEM 25. Amend renumbered subrule 101.11(2) as follows:

101.11(2) Pay the reactivation fee that is due as specified in ~~645—Chapter 105~~ rule 645—5.9(147,156).

ITEM 26. Amend renumbered subparagraph **101.11(3)"a"(3)** as follows:

(3) Verification of completion of 2 hours of continuing education in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. These 2 hours shall be included as a part of the 24 hours required in ~~101.18(3)*"a"*(2)~~ subparagraph 101.11(3)*"a"*(2).

ITEM 27. Amend renumbered rule 645—101.12(17A,147,272C) as follows:

645—101.12(17A,147,272C) ~~License reinstatement~~ Reinstatement of a funeral director license. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with ~~645—101.18(17A,147,272C)~~ rule 645—101.11(17A,147,272C) prior to practicing as a funeral director in this state. The owner of a funeral home establishment whose establishment license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the establishment license and must apply for and be granted reactivation of the establishment license prior to reopening the funeral home establishment.

ITEM 28. Amend rule 645—102.1(272C) as follows:

645—102.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

~~*"Approved program/activity"* means a continuing education program/activity meeting the standards set forth in these rules.~~

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of mortuary science.

"Continuing education" means planned, organized learning acts that are designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public and that meet the standards set forth in these rules.

~~*"Direct supervision"* means under the direction and immediate supervision of a licensed funeral director.~~

~~*"Full-time"* means a minimum of a 35-hour work week.~~

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of ~~an approved~~ continuing education ~~activity~~.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

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

"License" means license to practice.

"Licensee" means any person licensed to practice as a funeral director in the state of Iowa.

ITEM 29. Amend subrule 102.2(1) as follows:

102.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on the fifteenth day of the licensee's birth month and ending on the fifteenth day of the licensee's birth month. Each biennium, each person who ~~is licensed to practice as a licensee in this state~~ holds an active license shall be required to complete a minimum of 24 hours of continuing education ~~approved by the board~~ activity. Two of the 24 hours of continuing education shall be in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. ~~Beginning January 1, 2009,~~ A minimum of 12 hours of the 24 hours of continuing education required for renewal shall be earned by completing a program in which an instructor conducts the class employing either in-person or live, real-time interactive media.

ITEM 30. Amend subrule 102.2(4) as follows:

102.2(4) No hours of continuing education shall be carried over into the next biennium except as stated ~~for the second renewal~~ in subrule 102.2(2). A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

ITEM 31. Amend paragraph **102.3(1)"e"** as follows:

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

All licensees must retain the information identified in paragraph 102.3(1)*"e"* for two years after the biennium has ended.

ITEM 32. Amend paragraphs **102.3(2)"c"** and **"d"** as follows:

c. Attendance at or participation in a program or course which is offered or sponsored by a state or national funeral association that meets the criteria in subrule 102.3(1) and paragraph 102.3(2)*"a."* is accepted.

d. ~~Independent study, including television viewing, Internet, video- or sound-recorded programs, or correspondence work, or by other similar means that meet the criteria in paragraph 102.3(2)*"a."*~~ Independent study credits, including those obtained by television viewing, Internet, video- or sound-recorded programs, or correspondence work or by other similar means that meet the criteria in paragraph 102.3(2)*"a,"* must be accompanied by a certificate from the sponsoring organization that indicates successful completion of the test. ~~After January 1, 2009, continuing~~ Continuing education credit obtained by independent study shall not exceed 12 hours of the 24 hours required during the compliance period.

ITEM 33. Amend rule 645—103.3(17A,147,156,272C), introductory paragraph, as follows:

645—103.3(17A,147,156,272C) Grounds for discipline against funeral directors. The board may initiate disciplinary action against a licensed funeral director based on Iowa Code section 156.9 and any of the following grounds:

ITEM 34. Amend paragraph **103.3(4)"g"** as follows:

g. Embalming or attempting to embalm a deceased human body without first having obtained authorization from a family member or representative of the deceased, except where embalming is done to meet the requirements of applicable state or local law. However, a funeral director may embalm without authority when, after due diligence, no authorized person can be contacted and embalming is in accordance with legal or accepted standards in the community, or the licensee has good reason to believe that the family wishes embalming. The order of priority for those persons authorized to permit embalming is found in Iowa Code section ~~142A.2(2)~~ 144C.5. If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the prohibition in this paragraph.

ITEM 35. Amend subrule 103.3(14) as follows:

103.3(14) Failure to comply with conditions of Iowa Code ~~section~~ sections 142C.10 and 142C.10A.

ITEM 36. Amend subrule 103.4(6) as follows:

103.4(6) The licensee or owner of the establishment has violated the smokefree air Act, ~~2008 Iowa Acts, House File 2212~~ Iowa Code chapter 142D.

ITEM 37. Rescind and reserve rule **645—103.7(156)**.

ITEM 38. Amend rule 645—104.4(156) as follows:

645—104.4(156) Subpoenas. Pursuant to Iowa Code sections 17A.13(1) and 156.16, the board is authorized in connection with an investigation of an unlicensed person or establishment to issue subpoenas to compel persons to testify and to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Board procedures concerning investigative subpoenas are set forth in ~~645 IAC 9.5(17A,272C)~~ rule 645—9.5(17A,272C).

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ARC 3084C

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Adopted and Filed

Pursuant to the authority of Iowa Code section 543D.5, the Iowa Real Estate Appraiser Examining Board (Board) hereby adopts amendments to Chapter 1, "Organization and Administration," Chapter 4, "Associate Real Property Appraiser," Chapter 5, "Certified Residential Real Property Appraiser," and Chapter 6, "Certified General Real Property Appraiser," Iowa Administrative Code.

The purpose of these amendments is to clarify requirements for individuals seeking to become associate appraisers or to upgrade their credentials on or after January 1, 2017, in accordance with Iowa Code section 543D.22 and current Board rules. The requirement for background checks is already in effect, and these amendments circumscribe the time frame for when an application is due in relation to the completion of a background check.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2966C** on March 15, 2017. A public hearing was held on April 4, 2017, at 8:30 a.m. in the Professional Licensing Small Conference Room, 200 E. Grand Avenue, Third Floor, Des Moines, Iowa. No public comment was received. These amendments are identical to those published under Notice.

These amendments do not have any fiscal impact on the state of Iowa.

These amendments are subject to waiver or variance pursuant to 193F—Chapter 11.

The Board adopted these amendments on April 27, 2017.

After analysis and review of this rule making, no direct impact on jobs exists as these amendments implement procedural changes only.

These amendments are intended to implement Iowa Code chapter 543D.

These amendments will become effective June 28, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 193F—1.21(543D) as follows:

193F—1.21(543D) National criminal history check. Effective January 1, 2017, all applicants for any of the classifications listed in 193F—1.17(543D) must satisfactorily complete a national criminal history check as provided in Iowa Code section 543D.22 as a condition of registration as an associate real

property appraiser or certification as a residential or general real property appraiser. The applicant shall authorize release of the results of the criminal history check to the board. Unless the criminal history check was completed within 180 calendar days prior to the date the license application is received by the board, the board shall reject and return the application to the applicant.

ITEM 2. Amend subrule 4.1(3) as follows:

4.1(3) *Background check.* Effective January 1, 2017, a national criminal history check as provided in Iowa Code section 543D.22 shall be performed on any new associate appraiser. The applicant shall authorize release of the results of the criminal history check to the board. Unless the criminal history check was completed within 180 calendar days prior to the date the license application is received by the board, the board shall reject and return the application to the applicant.

ITEM 3. Amend subrule 5.7(5) as follows:

5.7(5) *Background check.* Effective January 1, 2017, a national criminal history check as provided in Iowa Code section 543D.22 shall be performed on any appraiser upgrading to a certified general real property appraiser. The applicant shall authorize release of the results of the criminal history check to the board. Unless the criminal history check was completed within 180 calendar days prior to the date the license application is received by the board, the board shall reject and return the application to the applicant.

ITEM 4. Amend rule 193F—6.7(543D) as follows:

193F—6.7(543D) Background check. Effective January 1, 2017, a national criminal history check as provided in Iowa Code section 543D.22 shall be performed on any appraiser upgrading to a new credential. The applicant shall authorize release of the results of the criminal history check to the board. Unless the criminal history check was completed within 180 calendar days prior to the date the license application is received by the board, the board shall reject and return the application to the applicant.

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ARC 3085C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 422.8, 422.13, 422.14, 422.16, 422.33, 422.36, 422.37, 422.68, 423.6, 423.33, 423.58, 423D.3, and 427.1, the Department of Revenue hereby amends Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest," Chapter 32, "Receipts Exempt from Use Tax," Chapter 39, "Filing Return and Payment of Tax," Chapter 40, "Determination of Net Income," Chapter 46, "Withholding," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Chapter 53, "Determination of Net Income," Chapter 54, "Allocation and Apportionment," Chapter 80, "Property Tax Credits and Exemptions," and Chapter 241, "Excise Taxes Not Governed by the Streamlined Sales and Use Tax Agreement," and adopts a new Chapter 242, "Facilitating Business Rapid Response to State-Declared Disasters," Iowa Administrative Code.

These amendments and new Chapter 242 are intended to bring the rules up to date with recent legislation and help facilitate the rapid response of businesses and workers to a disaster by providing that notwithstanding any law to the contrary, an out-of-state business or an out-of-state employee that performs disaster and emergency-related work on critical infrastructure during a disaster response period due to a state-declared disaster is not subject to income tax, corporate income tax, use tax, equipment tax, property tax, or tax filing, permit, or return requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2942C** on February 15, 2017. No public comments were received in relation to this rule making. These amendments are identical to those published under Notice.

Any person who believes that the application of the discretionary provisions of these rules 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).

The Department of Revenue adopted these amendments on March 22, 2017.

After analysis and review of this rule making, the Department finds that these amendments are not likely to have a significant impact on jobs.

These amendments are intended to implement Iowa Code sections 422.8, 422.13, 422.14, 422.16, 422.33, 422.36, 422.37, 422.68, 423.6, 423.33, 423.58, 423D.3, and 427.1.

These amendments will become effective June 28, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 701—12.17(422) as follows:

701—12.17(~~422~~ 423) Purchaser liability for unpaid sales tax. For sales occurring on and after March 13, 1986, if a purchaser fails to pay sales tax to a retailer required to collect the tax, the tax is payable by the purchaser directly to the department. The general rule is that the department may proceed against either the retailer or the purchaser for the entire amount of tax which the purchaser is, initially, obligated to pay the retailer. However, see 701—subrule 15.3(2) for a situation in which the obligation to pay the tax is imposed upon the purchaser alone. On or after January 1, 2016, see 701—Chapter 242 for a situation in which the obligation to pay the tax is not imposed on an out-of-state business operating within Iowa solely for the purpose of performing disaster or emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

This rule is intended to implement Iowa Code section ~~422.52~~ 423.33.

ITEM 2. Adopt the following **new** rule 701—12.20(423):

701—12.20(423) Collection, permit, and tax return exemption for certain out-of-state businesses. On or after January 1, 2016, see 701—Chapter 242 for the requirement of an out-of-state business to obtain a sales or use tax permit, collect and remit sales and use tax, or make and file applicable sales or use tax returns when operating in Iowa solely for the purpose of performing disaster or emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

This rule is intended to implement Iowa Code section 423.58.

ITEM 3. Adopt the following **new** rule 701—32.14(423):

701—32.14(423) Exemption for tangible personal property brought into Iowa under Iowa Code section 29C.24. On or after January 1, 2016, see 701—Chapter 242 for an exemption from use tax on tangible personal property purchased outside Iowa and brought into Iowa or used in Iowa to aid in the performance of disaster or emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

This rule is intended to implement Iowa Code section 423.6(17).

ITEM 4. Adopt the following **new** subrule 39.1(8):

39.1(8) *Returns filed by out-of-state business or out-of-state employee performing disaster and emergency-related work during a disaster response period.* On or after January 1, 2016, see 701—Chapter 242 for filing requirements of an out-of-state business or out-of-state employee as defined in Iowa Code section 29C.24 who enters Iowa to perform disaster and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

ITEM 5. Adopt the following **new** paragraph **40.16(4)"e"**:

e. On or after January 1, 2016, see 701—Chapter 242 for allocation and apportionment of net income to Iowa by an out-of-state business or out-of-state employee who enters Iowa to perform disaster

and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

ITEM 6. Adopt the following **new** subrule 46.4(9):

46.4(9) *Exemption from withholding of payments made to an out-of-state business or out-of-state employee due to state-declared disaster.* On or after January 1, 2016, see 701—Chapter 242 for withholding requirements of an out-of-state business or out-of-state employee who enters Iowa to perform disaster and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

ITEM 7. Adopt the following **new** paragraph **52.1(6)"f"**:

f. Out-of-state business performing work in Iowa due to state-declared disaster. On or after January 1, 2016, see 701—Chapter 242 for filing requirements for an out-of-state business who enters Iowa to perform disaster and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

ITEM 8. Adopt the following **new** paragraph **53.15(4)"d"**:

d. On or after January 1, 2016, see 701—Chapter 242 for requirements of an out-of-state business to be a part of an affiliated group filing an Iowa consolidated return that enters Iowa to perform disaster and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

ITEM 9. Adopt the following **new** subrule 54.6(7):

54.6(7) Allocation and apportionment of out-of-state business due to state-declared disaster. On or after January 1, 2016, see 701—Chapter 242 for allocation and apportionment of income derived from an out-of-state business that enters Iowa to perform disaster and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

ITEM 10. Adopt the following **new** rule 701—80.32(427,428,433,434,435,437,438):

701—80.32(427,428,433,434,435,437,438) Property aiding in disaster or emergency-related work. On or after January 1, 2016, see 701—Chapter 242 for assessment of property taxes by the department under Iowa Code sections 428.24 through 428.26, 428.28, and 428.29, or Iowa Code chapters 433, 434, 435, and 437 through 438, or by a local assessor, on property brought into Iowa to aid in the performance of disaster or emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

This rule is intended to implement Iowa Code section 427.1(41).

ITEM 11. Amend rule 701—241.8(423D) as follows:

701—241.8(423D) Exemption.

241.8(1) The sales price on the lease or rental of equipment to contractors for direct and primary use in construction is exempt from the tax imposed by this chapter.

241.8(2) On or after January 1, 2016, see 701—Chapter 242 for an exemption on the sales price or purchase price of equipment purchased outside Iowa and brought into Iowa to aid in the performance of disaster or emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

ITEM 12. Adopt the following **new** 701—Chapter 242:

CHAPTER 242
FACILITATING BUSINESS RAPID RESPONSE TO STATE-DECLARED DISASTERS

701—242.1(29C) Purpose. The Iowa department of revenue, the Iowa department of homeland security and emergency management and the secretary of state are authorized and tasked by the legislature to jointly administer and oversee mutual aid among the political subdivisions of Iowa, other states and the

federal government and to ensure the state government and its departments and agencies facilitate the rapid response of businesses and workers in the state and other states to a disaster.

701—242.2(29C) Definitions. For purposes of this chapter, the definitions from Iowa Code section 29C.24 are adopted by reference.

701—242.3(29C) Disaster or emergency-related work.

242.3(1) *Out-of-state business.* On or after January 1, 2016, an out-of-state business conducting operations within the state solely for the purpose of performing disaster or emergency-related work during a disaster response period does not establish a level of presence that would subject the out-of-state business to any of the following:

a. The requirement to collect and remit any tax imposed on another person.

b. The requirement to file any related tax return or obtain any related tax permit.

c. Income taxes imposed under Iowa Code chapter 422, divisions II and III, including the requirement to withhold and remit income tax from out-of-state employees under Iowa Code section 422.16 or to be included in a consolidated return under Iowa Code section 422.37.

d. Allocation and apportionment of net income of the out-of-state business under Iowa Code section 422.8 or 422.33 to Iowa.

e. Use tax under Iowa Code chapter 423 on tangible personal property purchased outside Iowa and brought into Iowa pursuant to this subrule if the tangible personal property does not remain in Iowa after the disaster response period ends.

f. Equipment tax under Iowa Code chapter 423D on equipment purchased outside Iowa and brought into Iowa pursuant to this subrule if the equipment does not stay in Iowa after the disaster response period ends.

g. Assessment of property taxes by the department under Iowa Code sections 428.1 through 428.26 and 428.29, or Iowa Code chapters 433, 434, 435, and 437 through 438, or by a local assessor under another provision of law, on property brought into the state pursuant to this subrule if the property does not remain in Iowa after the disaster response period ends.

242.3(2) *Out-of-state employee.* On or after January 1, 2016, the performance of disaster or emergency-related work during a disaster response period by an out-of-state employee is not a basis to determine that the out-of-state employee has established residency or a level of presence in Iowa that would subject the out-of-state employee to any of the following:

a. The requirement to complete or obtain any state or local registration, license, or similar authorization as a condition of doing business in Iowa or engaging in an occupation in Iowa, or to pay any related fee.

b. The income tax imposed under Iowa Code chapter 422, division II, the requirement to file tax returns under Iowa Code section 422.13 and the requirement to be subject to withholding under Iowa Code section 422.16. The requirement to file any related tax return or obtain any related tax permit.

c. Allocation and apportionment of net income of the out-of-state employee under Iowa Code section 422.8 to Iowa shall not increase due to work performed by the out-of-state employee under this subrule.

d. Use tax under Iowa Code chapter 423 on tangible personal property purchased outside Iowa and used in Iowa pursuant to this subrule if the tangible personal property does not remain in Iowa after the disaster response period ends.

e. Equipment tax under Iowa Code chapter 423D on equipment purchased outside Iowa and used in Iowa pursuant to this subrule if the equipment does not stay in Iowa after the disaster response period ends.

f. Assessment of property taxes by the department under Iowa Code sections 428.1 through 428.26 and 428.29, or Iowa Code chapters 433, 434, 435, and 437 through 438, or by a local assessor under another provision of law, on property brought into the state pursuant to this subrule if the property does not remain in Iowa after the disaster response period ends.

242.3(3) *After the disaster response period ends.* On or after January 1, 2016, an out-of-state business or out-of-state employee remaining in Iowa after the disaster response period for which the disaster or emergency-related work was performed is responsible for all taxes, fees, registration, filing or other requirements the out-of-state business or out-of-state employee would have been subject to but for Iowa Code section 29C.24.

These rules are intended to implement Iowa Code sections 29C.24, 422.8, 422.13, 422.16, 422.33, 422.36, 422.37, 423.6, 423.33, 423.58, and 427.1.

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